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Elections

NEW JERSEY STATUTES ANNOTATED

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Elections

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NEW JERSEY STATUTES ANNOTATED

Title 19

ELECTIONS

19:32-1 to 19:End

F. Clifton White Resource Center
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PREFACE

These recompiled volumes, containing Title 19, Elections, are designed to preserve and extend the practical utility of New Jersey Statutes Annotated by bringing to date the presentation of the general and permanent laws under official allocations within the framework of the Revised Statutes of 1937 together with constructions and interpretations thereof by state and federal courts, the attorney general, and administrative decisions.

Laws are included through Chapter 153 of the 1998 Annual Session.

Features of Volume

The many outstanding features of New Jersey Statutes Annotated are continued in this volume. These include Governor's reconsideration and recommendation statements applicable to the enacted law and committee and introductory statements which state the purpose of the law; detailed historical and statutory notes; cross references and administrative code references to similar, related, supplementary or qualifying provisions; references to commentaries in law reviews published in New Jersey; library references; references to relevant decisions of the United States Supreme Court; and complete annotations covering the judicial constructions and interpretations of the law by the courts.

Statements

Governor's reconsideration and recommendation statements, Senate and Assembly committee statements, and introductory statements added by the sponsor, applicable to the final enrolled bill, are set forth following the first classified section of a law together with references from other classified sections of the law to the statement under the first section.

Historical and Statutory Notes

Historical and Statutory Notes provide information relevant to the interpretation and construction of each section of law.

PREFACE

Source and Prior Laws

The Source, as supplied by the State or editorially, and the Prior Laws, as editorially supplied, under each section of Title 19 provide, for research purposes, a means of access to the former sections, the legislative acts, and the uniform laws from which the revised or new sections were derived.

Library References

Library References provide citations to the pertinent Key Numbers of the New Jersey Digest and other Digests in the American Digest System, to Corpus Juris Secundum, the popular and widely accepted major law encyclopedia, and to the New Jersey Practice volumes. Through these works the researcher has complete access to cases of other jurisdictions relating to the same subject matter as the statute under consideration.

Notes of Decisions

This feature, the distinguishing hallmark of New Jersey Statutes Annotated, consists of paragraphs with statements of construction and application of the statutes of New Jersey by state and federal courts, opinions of the attorney general and state administrative agencies.

The annotations are arranged in logical order under numbered catchlines. Sections with more than one annotation catchline are provided with alphabetical indexes to the annotations. Where annotations tend to relate to the chapter as a whole, they are generally classified to the first section of the chapter.

The annotations from the decisions of the State and Federal courts construing the laws close with cases reported in:

Atlantic Reporter, Second Series	717 A.2d 1139
New Jersey Reports	156 N.J. 373
New Jersey Superior Court Reports	315 N.J.Super. 286
Supreme Court Reporter	118 S.Ct. 2398
United States Reports	518 U.S. (part)
Lawyers' Edition, Second Series	143 L.Ed.2d (part)
Federal Reporter, Third Series	156 F.3d 189
Federal Supplement, Second Series	14 F.Supp.2d 750
Federal Rules Decisions	181 F.R.D. 558
Bankruptcy Reporter	225 B.R. 252
Federal Claims Reporter	41 Fed.Cl. 610
New Jersey Tax Court	17 N.J.Tax Ct. 102
Opinions of the Attorney General -- Atty.Gen.F.O.1997, No. 1	
Other Standard Reports	

PREFACE

Index

Comprehensive and detailed indices of Title 19 are included at the end of the second volume of Title 19. In addition, full coverage of Title 19 and all related statutes is provided in N.J.S.A.'s General Index.

Upkeep of the Basic Volume

This volume is designed for supplementation with the modern system of interim annotation and session law service pamphlets and cumulative pocket parts.

Of special note for the New Jersey user is West's New Jersey Session Law Service and the New Jersey databases on WESTLAW. Since the legislature remains active during the entire year, it is important that the laws be published soon after they are enacted. Session law service pamphlets are published frequently during the session and the cumulative tables and index within each pamphlet keep the user aware of what has been enacted by the legislature to that date.

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ABBREVIATIONS

A.B.A.J. -----	American Bar Association Journal
A.D. -----	Appellate Division, Superior Court
A.L.R. -----	American Law Reports
A.L.R.2d -----	American Law Reports, Second Series
A.L.R.3d -----	American Law Reports, Third Series
A.L.R.4th -----	American Law Reports, Fourth Series
A.L.R.5th -----	American Law Reports, Fifth Series
A.L.R.Fed. -----	American Law Reports, Federal
App. -----	Appendix
Art. -----	Article
A. -----	Atlantic Reporter
A.2d -----	Atlantic Reporter, Second Series
Atty.Gen.F.O. -----	Attorney General Formal Opinion
B.R. -----	Bankruptcy Reporter
Cert. -----	Certification
c. -----	Chapter of Act
Ch. -----	Chapter or Chancery Division, Superior Court
C. -----	Compilation number
C.S. -----	Compiled Statutes
C.J.S. -----	Corpus Juris Secundum
Cl. -----	Clause
Const. -----	Constitution
Co. -----	County Court
Com.Pl. -----	Court of Common Pleas
Cr.Ct. -----	Criminal Judicial District Court
Crim.Just.Q. -----	Criminal Justice Quarterly
Dist.Ct. -----	County District Court
Eff. -----	Effective
Err. & App. -----	Court of Errors and Appeals
Fed.Cas. -----	Federal Cases
Fed.Cl. -----	Federal Claims Reporter
F. -----	Federal Reporter
F.2d -----	Federal Reporter, Second Series
F.3d -----	Federal Reporter, Third Series
F.R.D. -----	Federal Rules Decisions
F.Supp. -----	Federal Supplement
F.O. -----	Formal Opinion of Attorney General
Juv. & Dom.Rel. -----	Juvenile and Domestic Relations Court

ABBREVIATIONS

☞ (Key Number) -----	State Digest and other units of the American Digest System
L. -----	Laws or Law Division, Superior Court
L.Ed. -----	Lawyers' Edition
L.Ed.2d -----	Lawyers' Edition, Second Series
Mun. -----	Municipal Court
N.J.A.C. -----	New Jersey Administrative Code
N.J.A.R. -----	New Jersey Administrative Reports
N.J.Eq. -----	New Jersey Equity Reports
N.J.L.J. -----	New Jersey Law Journal
N.J.L. -----	New Jersey Law Reports
N.J.Law. -----	New Jersey Lawyer
N.J.Misc. -----	New Jersey Miscellaneous Reports
N.J. -----	New Jersey Reports
N.J.State Bar J. -----	New Jersey State Bar Journal
N.J.S. -----	New Jersey Statutes
N.J.S.A. -----	New Jersey Statutes Annotated
N.J.Super. -----	New Jersey Superior Court Reports
N.J.Tax -----	New Jersey Tax Court Reports
No. -----	Number
Op.Atty.Gen. -----	Opinion of the Attorney General
Orph. -----	Orphans' Court
Par. -----	Paragraph
Pa.C.S.A. -----	Pennsylvania Consolidated Statutes Annotated
PEB -----	Permanent Editorial Board for the Uniform Commercial Code
P.L. -----	Pamphlet Laws
Prerog. -----	Prerogative Court
Prob. -----	Probate Part of Chancery Division, Superior Court
Resen. -----	Resentencing Panel, Superior Court
R.S.C.S. -----	Revised Statutes Cumulative Supplement
R.S. -----	Revised Statutes
Rev. -----	Revision
R. -----	Rules of Court
R.R. -----	Rules of Court, 1953 Revision
Rutgers L.J. -----	Rutgers Law Journal
Rutgers-Camden L.J. -----	Rutgers-Camden Law Journal
Rutgers L.Rev. -----	Rutgers Law Review
Sec. -----	Section of the Act
Seton Hall L.Rev. -----	Seton Hall Law Review
Seton Hall Legis.J. -----	Seton Hall Legislative Journal
Sp.Session -----	Special Session

ABBREVIATIONS

Subsec.-----	Subsection
Subd. -----	Subdivision
Suppl. -----	Supplement
S.Ct.-----	Supreme Court Reporter
Sur.-----	Surrogate's Court
U.L.A.-----	Uniform Laws Annotated
U.S.-----	United States Reports
U.S.C.A. -----	United States Code Annotated
Val. -----	Validating Acts

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CITE THIS BOOK

Thus: N.J.S.A. 19:1-1

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TITLE 19 ELECTIONS

Volume 19:1 to 19:31A

Volume 19:32 to 19:End

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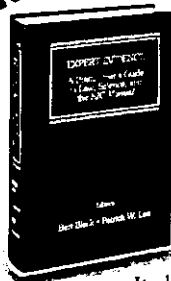
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NEW JERSEY STATUTES ANNOTATED

TITLE 19 ELECTIONS

Chapters 32 to End appear in this volume

Subtitle

1. Any Election.
2. General Elections.
3. Primary Elections.
4. Special Elections and Filling Vacancies.
5. Recounts and Contests—Any Election.
6. Registration of Voters.
7. Enforcement of Election Law.
8. War Time Voting.[Repealed]
9. Electoral College.
10. Nonbinding County or Municipal Referenda.
11. First Elections in Consolidated Municipalities. [Repealed]
12. Campaign Expenditures [Repealed]
- 12A. Campaign Contributions and Expenditures
- 12B. Financial Disclosure by Candidates
13. Public Election Expenses.
14. Congressional Districts.
15. Voting Machines; Procedure
16. Absentee Voting—Military Service [Repealed]
17. Absentee Voting

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SUBTITLE 7

ENFORCEMENT OF ELECTION LAW

Chapter

- 32. Superintendent of Elections.
- 33. Removal of Names From Registers By Courts.
- 34. Crimes and Penalties—Enforcement.

CHAPTER 32

SUPERINTENDENT OF ELECTIONS

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- 19:32-1.1. Counties of first class; deputy superintendent of elections; appointment by Governor; term; vacancies.
- 19:32-1.2. Powers and duties.
- 19:32-2. Deputy; clerk; secretary and other assistants; civil service; salaries; expenses.
- 19:32-3. Municipal expenses payable by municipalities.
- 19:32-4. Offices, equipment and supplies.
- 19:32-4.1. Election days; polling places to be provided with complaint forms; forms accompanied by stamped and addressed envelope.
- 19:32-5. Investigations by superintendent and assistants; neglect to furnish information or exhibit records, misdemeanor.
- 19:32-6. Subpoenas; power to issue; service; failure to testify; false statements.
- 19:32-7. Attendance at elections; admission to polling places.
- 19:32-8. Register of lodgers.
- 19:32-9. Card records of persons registered in municipalities not having permanent registration.
- 19:32-10. Challenge lists in municipalities not having permanent registration.
- 19:32-11. Sealing, preserving and opening ballot boxes.
- 19:32-12. Interference with sealing of ballot boxes; misdemeanor.
- 19:32-13. Destroying, removing or defacing seals on ballot boxes; misdemeanor.
- 19:32-14. When powers of superintendents and deputies exercisable.
- 19:32-15 to 19:32-20. Repealed.
- 19:32-21. Police powers of superintendents, deputies and assistants.
- 19:32-22. Arrests without warrant; peace officers punishable for failure to assist.
- 19:32-23. Detention of persons arrested.
- 19:32-24. Complaint against person arrested; hearing by magistrate.
- 19:32-25. Removal of persons from polling places.

SUPERINTENDENT OF ELECTIONS

Section

- 19:32-26. Second and fifth class counties; establishment of office of superintendent of elections; appointment; salary; term; vacancies.
- 19:32-26.1. Office of deputy superintendent of elections established in second class counties; appointment; salary; term of office; vacancies.
- 19:32-26.2. Powers and duties of deputy superintendent of elections of second class county.
- 19:32-27. Deputy, clerk, secretary and other assistants; expenses.
- 19:32-28. Expenses of election held in municipality.
- 19:32-29. Offices, equipment and supplies.
- 19:32-30. Investigations by superintendents and assistants; neglect to furnish information or exhibit records.
- 19:32-31. Subpoenas; refusal to obey; false statements.
- 19:32-32. Attendance at elections; admission to polling places.
- 19:32-33. Register of guests and lodgers in lodging houses, inns and hotels.
- 19:32-34. Sealing, preserving and opening ballot boxes.
- 19:32-35. Interference with sealing ballot boxes; misdemeanor.
- 19:32-36. Destroying, removing or defacing seals on ballot boxes; misdemeanor.
- 19:32-37. Exercise of powers by superintendent or assistants, when.
- 19:32-38 to 19:32-43. Repealed.
- 19:32-44. Superintendent and assistants to have powers of peace officers.
- 19:32-45. Arrest without warrant; aid of peace officers in taking arrested person to police station.
- 19:32-46. Detention of persons arrested.
- 19:32-47. Complaint against person arrested; hearing by magistrate.
- 19:32-48. Removal of persons from polling places.
- 19:32-49. Superintendent constituted commissioner of registration; custody of voting machines; deputy superintendent constituted deputy commissioner of registration.
- 19:32-50. Salaries and expenses during fiscal year in which act takes effect.
- 19:32-51. Transfer of employees of county board of elections.
- 19:32-52. Appropriations for salaries and expenses.
- 19:32-53. Voting machines, forms, records, etc. to be turned over.

Library References

Elections \S 49, 54, 309 et seq.

WESTLAW Topic No. 144.

C.J.S. Elections \S 54 et seq., 324, 334.

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19:32-1. Establishment of office; appointment by Governor with advice and consent of Senate; term; salary; vacancy; salary of deputies

The office of superintendent of elections in counties of the first class in which such office has previously been established is continued, and in those counties of the first class in which such office has not been previously established, is established. The offices shall be filled by some suitable persons who shall be nominated by the Governor with the advice and consent of the Senate and who shall hold office for the term of five years from the date of appointment and until their successors are appointed and have qualified. Each superintendent shall receive such salary per annum as the governing body of such county may by resolution authorize, but not less than \$7,500 , to be paid by the county treasurer. The persons so appointed shall have their offices in the counties for which they are appointed. Vacancies shall be filled in the same manner as original appointments, but shall be for the unexpired terms only. Any person filling a vacancy shall be from the same party as the original appointee. The annual salary of each deputy superintendent shall be 90% of what the superintendent receives for performing the duties of superintendent of elections and commissioner of registration.

Amended by L.1940, c. 165, p. 519, § 2; L.1944, c. 45, p. 101, § 1; L.1961, c. 59, p. 553, § 4; L.1965, c. 143, § 1; L.1967, c. 13, § 1, eff. March 13, 1967; L.1975, c. 256, § 1, eff. Dec. 1, 1975; L.1982, c. 46, § 3, eff. June 29, 1982; L.1989, c. 160, § 1, eff. Aug. 11, 1989; L.1998, c. 91, § 1, eff. Sept. 1, 1998.

Historical and Statutory Notes

Source: L.1930, c. 187, §407, p. 863,
amended by L.1933, c. 113, § 1, p. 229.

Cross References

Classification of counties for legislative purposes, see § 40A:6-1 et seq.

Library References

Elections ⇨49.

WESTLAW Topic No. 144.

C.J.S. Elections § 56.

Notes of Decisions

Compensation 2
Employees 1
1. Employees

This section et seq., creating the office of superintendent of elections in counties of the first class and enumerating his powers and duties, indicate legislative intent to give such officer the power of removal of employees specified and manifests legislative intent to effect a complete reorganization of machinery in regard to elections in first class counties. *McCallion v. Allan*, 134 N.J.L. 322, 47 A.2d 602 (1946).

2. Compensation

Mandamus would not be awarded against the board of chosen freeholders of a county to compel appropriation for the salary of the county superintendent of elections, which office was created under the L.1923, p. 26, repealed, because the statute regulating county budgets, L.1919, p. 378, § 25, repealed, the words "may by vote of at least two thirds of the members" was permissive and not mandatory on the county board. *McDonald v. Board of Chosen Freeholders of Hudson County*, 99 N.J.L. 170, 122 A. 801 (1923).

19:32-1.1. Counties of first class; deputy superintendent of elections; appointment by Governor; term; vacancies

The office of deputy superintendent of elections in counties of the first class is established. The office in each county shall be filled by a suitable person who shall be nominated by the Governor with the advice and consent of the Senate, who shall not be from the same political party as the superintendent of elections, and who shall hold office for a term of 5 years, running concurrently with the term of the superintendent and until his successor is appointed and has qualified. The initial appointment to the office of deputy superintendent of elections may be for a partial term, if necessary. Vacancies shall be filled in the same manner as original appointments but shall be for the unexpired term only. He shall have his office in the county for which he is appointed.

L.1982, c. 46, § 1, eff. June 29, 1982.

Historical and Statutory Notes**Title of Act:**

An Act creating the office of deputy superintendent of elections in certain counties; amending R.S. 19:32-1, R.S.

19:32-2, and P.L.1947, c. 167; and supplementing chapter 32 of Title 19 of the Revised Statutes. L.1982, c. 46.

Cross References

Classification of counties for legislative purposes, see § 40A:6-1 et seq.

Library References

Elections ⇨49, 51.

WESTLAW Topic No. 144.

C.J.S. Elections § 56 et seq.

19:32-1.2. Powers and duties

The deputy superintendent of elections shall assist the superintendent of elections in the performance of his duties, shall serve as superintendent in his absence, and shall have such powers and duties as the superintendent may delegate to him from time to time. In addition, the deputy superintendent is constituted the chief deputy of the superintendent and shall have all of the powers and duties of the chief deputy. No county with a deputy superintendent so appointed shall also have a chief deputy appointed pursuant to R.S. 19:32-2. L.1982, c. 46, § 2, eff. June 29, 1982.

Library References

Elections ⇨54.

WESTLAW Topic No. 144.

C.J.S. Elections § 54 et seq.

Texts and Treatises

26 Am Jur 2d, Elections §§371, 372.

19:32-2. Deputy; clerk; secretary and other assistants; civil service; salaries; expenses

Except as provided in section 2 of P.L.1982, c. 46 (C.19:32-1.2), each superintendent may appoint a chief deputy, a chief clerk, a secretary, such personnel as is authorized under R.S.19:48-6, and any other assistants he considers necessary to carry out the provisions of this Title, and, except as hereinafter provided, may remove the same whenever he deems it necessary and all persons so appointed, by superintendents of elections in counties of the first class having more than 850,000 inhabitants, according to the latest federal census taken in a year ending in zero, to serve for terms of more than six months in any one year, shall be in the classified service of the civil service and shall be appointed in accordance with and shall be subject to the provisions of Title 11A, Civil Service, but all other persons so appointed shall not be subject to any of the provisions of Title 11A, Civil Service, but shall be in the unclassified service. All persons appointed by the commissioner of registration in counties of the first class having more than 600,000, but less than 850,000 inhabitants, according to the latest federal census taken in a year ending in zero, to serve for terms of more than six months in any one year, other than the chief deputy and chief clerk and confidential secretary and chief custodian, shall be in the classified service of the civil service and shall be appointed, and hold their position, in accordance with the provisions of Title 11A, Civil Service, but all other persons so appointed shall not be subject to any of the provi-

sions of Title 11A, Civil Service, but shall be in the unclassified service. Each superintendent shall fix the salaries of the persons so appointed and such salaries certified to and approved under his hand shall be paid semimonthly by the county treasurer of the county in which such persons are so engaged. All other necessary expenses incurred in carrying out the provisions of this Title, when certified to and approved by the superintendent, shall be paid by the county treasurer of the county in which the superintendent shall maintain his office; provided, however, that all necessary expenses incurred by the commissioner of registration, the superintendent of elections, and the custodian of voting machines in the counties of the first class for the proper performance of all of his duties of all his offices as set forth in Title 19, shall not exceed, in the aggregate, the sum of \$2,000,000.00 for the year 1998 or that sum, as adjusted, for each year thereafter. The governing body of the county may increase the sum but the increase shall not exceed 5% or the index rate, whichever is less, over the previous year's sum. As used in this section, "index rate" means the rate of annual percentage increase, rounded to the nearest half-percent, in the Implicit Price Deflator for State and Local Government Purchases of Goods and Services, computed and published quarterly by the United States Department of Commerce, Bureau of Economic Analysis, which annual increase shall be calculated on the basis of the second quarter which occurred in the next preceding local budget year. The Director of the Division of Local Government Services in the Department of Community Affairs shall promulgate annually, on or before October 1, the index rate to apply in the next following local budget year.

Amended by L.1940, c. 165, p. 519, § 3; L.1945, c. 56, p. 332, § 11; L.1945, c. 304, p. 884, § 1; L.1952, c. 290, p. 980, § 2; L.1953, c. 348, p. 1916, § 2; L.1963, c. 138, § 2; L.1972, c. 32, § 1, eff. May 25, 1972; L.1975, c. 204, § 2, eff. Sept. 18, 1975; L.1976, c. 69, § 1, eff. Aug. 18, 1976; L.1981, c. 263, § 1, eff. Aug. 14, 1981; L.1981, c. 462, § 25; L.1982, c. 46, § 4, eff. June 29, 1982; L.1989, c. 160, § 2, eff. Aug. 11, 1989; L.1998, c. 91, § 2, eff. Sept. 1, 1998.

Historical and Statutory Notes

Source: L.1930, c. 187, ¶408, p. 864.

Effective date of L.1981, c. 462, see
Historical Note under § 2A:4-4.

Library References

Elections ◊49, 51, 53.

WESTLAW Topic No. 144.

C.J.S. Elections §§ 56 et seq.

Notes of Decisions

Compensation	1
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Removal of personnel	2

1. Compensation

The payment of a cost of living bonus under the 1948 bonus act, L.1948, c. 18, to lower salaried employees of the Commissioner of Registration and Superintendent of Elections, would not violate limitations on expenditures in the offices of the Commissioner and Superintendent under this section and § 19:31-2 since cost of bonus payments would not be "expenses" of the office of Commissioner and Superintendent within meaning of statute limiting expenditures in such office. *MacPhail v. Board of Chosen Freeholders of Hudson County*, 6 N.J.Super. 613, 70 A.2d 508 (L.1950).

2. Removal of personnel

Superintendent of Elections and Commissioner of Registration of Essex County, under his authority under this section and § 1 of this chapter, to remove assistants whenever he deems it necessary, had authority to remove temporary clerk-investigators without reference to § 38:16-1. *Barringer v. Miele*, 6 N.J. 139, 77 A.2d 895 (1951).

Superintendent of elections of Hudson county, under his authority granted by this section to remove assistants whenever he deems it necessary, had authority without a hearing and without showing good cause to terminate employment of veterans of World War I employed by the County Board of Elections as assistant custodian and mechanic in the Warehouse division without reference to the veterans tenure statute, § 38:16-1, enacted prior to the reorganization of election procedure in first-class counties. *McCallion v. Allan*, 134 N.J.L. 322, 47 A.2d 602 (1946).

3. Counsel

County superintendent of elections, who was also commissioner of registration, was not empowered to appoint legal counsel of his own choosing. *Keenan v. Board of Chosen Freeholders of Essex County*, 101 N.J.Super. 495, 244 A.2d 705

(L.1968), affirmed 106 N.J.Super. 312, 255 A.2d 786.

4. Fees and expenses

Where general election was held throughout county, and citizens of city, placed on ballots referendum questions whether members of city's police and fire departments should be given salary increases, and whether ordinance creating a housing authority in city should be adopted, there was a "special election" on referenda questions, and hence city was liable for fees of deputies appointed to serve at polls in city because of threatened fraud concerning referenda elections, rather than county, since fees were expenses in connection with "election held in and for a municipality only" within meaning of § 19:32-3 requiring such expenses to be paid by municipality. *Allegro v. City of Bayonne*, 20 N.J. Misc. 354, 27 A.2d 652 (1942).

Under this section providing that all expenses in office of superintendent of elections should not exceed \$200,000 and § 19:31-2 constituting superintendent the commissioner of registration and limiting expenses of office of commissioner to \$300,000 for 1941 and \$250,000 per annum thereafter, the amounts fixed by statutes were a statutory ceiling upon the expenditures of superintendent and commissioner and did not require Board of Chosen Freeholders of Hudson County to appropriate any sum requested by one filing positions of superintendent and commissioner up to statutory maximum, without listing in some detail uses to which moneys were to be applied and amounts considered necessary for those several uses. *Sewell v. Board of Chosen Freeholders of Hudson County*, 126 N.J.L. 186, 18 A.2d 408 (1941).

A writ of mandamus would be issued requiring Board of Chosen Freeholders of Hudson County to make an appropriation of \$300,000 for office expenses of superintendent of elections and commissioner of registration, to be allocated \$120,000 to office of superintendent of elections and \$180,000 to office of commissioner of registration, in place of budgetary item of \$184,000 fixed by the Board, in view of what appeared to be reasonable financial requirements of offices. *Sewell v. Board*

of Chosen Freeholders of Hudson County,
126 N.J.L. 186, 18 A.2d 408 (1941).

19:32-3. Municipal expenses payable by municipalities

All necessary expenses incurred in carrying out the provisions of this title when certified to and approved by such superintendent in connection with an election held in and for a municipality only shall be paid by the municipality.

Historical and Statutory Notes

Source: L.1933, c. 113, § 2, p. 230.

Notes of Decisions**General elections 1****1. General elections**

Where general election was held throughout county, and citizens of city, placed on ballots referendum questions whether members of city's police and fire departments should be given salary increases, and whether ordinance creating a housing authority in city should be

adopted, there was a "special election" on referenda questions, and hence city was liable for fees of deputies appointed to serve at polls in city because of threatened fraud concerning referenda elections, rather than county, since fees were expenses in connection with "election held in and for a municipality only" within meaning of this section requiring such expenses to be paid by municipality. *Allegro v. City of Bayonne*, 20 N.J. Misc. 354, 27 A.2d 652 (1942).

19:32-4. Offices, equipment and supplies

The board of chosen freeholders of the counties shall provide suitable room or rooms for the transaction of the business of such superintendent and procure suitable furniture therefor and any books, stationery, fuel and supplies that may be necessary from time to time. It shall provide a proper place for the safe-keeping of the records and papers.

Historical and Statutory Notes

Source: L.1930, c. 187, ¶409, p. 864.

19:32-4.1. Election days; polling places to be provided with complaint forms; forms accompanied by stamped and addressed envelope

On the day of every municipal, primary, general, special or annual or special school election the superintendent of elections in counties having a superintendent of elections or the county board of elections in all other counties shall provide to each polling place in the county sufficient numbers of a form on which voters or persons attempting to vote may register any complaint regarding the conduct of the

election at the polling place where they voted or attempted to vote. In counties in which the primary language of 10% or more of the registered voters is Spanish, the form for the complaint shall appear in both English and Spanish. The form shall protect the anonymity of the complainant, if that person so wishes, and shall be accompanied by an envelope with the proper postage and the name and address of the superintendent of elections of the county or the chairman of the county board of elections, as the case may be. A complaint may be used by the superintendent of elections or any other municipal or State investigatory agency to conduct an investigation into possible violation of the State election law. Copies of the form containing the complaint shall be available from the superintendent of elections or the county board of elections, as the case may be. The original form of the complaint, or a copy, shall be kept on file with the superintendent of elections or the county board of elections, as the case may be, for two years after the election for which it was filed.

L.1991, c. 249, § 9, eff. Nov. 6, 1991.

Historical and Statutory Notes

Statement: Committee statement to Assembly, No. 2079—L.1991, c. 249, see § 19:15-18.1.

19:32-5. Investigations by superintendent and assistants; neglect to furnish information or exhibit records, misdemeanor or

Such superintendents and their assistants, in order to enforce the laws of this state regarding the conduct of elections, shall investigate all complaints relating to the registration of voters, and for that purpose the superintendents and their assistants shall have full power and authority to visit and inspect any house, dwelling, building, inn, lodging house or hotel and interrogate any inmate, house-dweller, keeper, caretaker, owner, proprietor or landlord thereof or therein as to any person or persons residing or claiming to reside therein or thereat; to inspect and copy any books, records, papers or documents relating to or affecting the elections, either general, special, primary or municipal, or the registration of voters in the custody and control of district boards, county boards, or the clerks or other officers of municipalities; to require every lodging-house keeper, landlord or proprietor to exhibit his register of lodgers therein at any time to the superintendent, his subordinates or any other person so designated by such superintendent.

Any person who neglects or refuses to furnish any information required or authorized by this title, or to exhibit the records, papers,

or documents herein authorized to be inspected, or which are required to be exhibited, shall be guilty of a misdemeanor.

Historical and Statutory Notes

Source: L.1930, c. 187, ¶10, p. 864.

American Law Reports

Validity, construction, and application of 42 USCA sec. 1973i(c) making it federal offense with respect to federal elections to give false information in

registering or voting or to pay or accept payment for registering or voting, 23 ALR Fed 463.

Library References

Texts and Treatises

26 Am Jur 2d, Elections § 386.

Notes of Decisions

Ballots 5
Books, records and papers 4
Counsel 2
Crimes and offenses 7
Jurisdiction 1
Quasi-judicial powers 3
Right to vote 6

1. Jurisdiction

Where county prosecutor, through an erroneous view of his jurisdiction, acted beyond his powers and by-passed statutory, authority given superintendent of elections by initiating an investigation into allegedly false challenge permits employed in primary election, prosecutor would be permanently enjoined from proceeding with matter until superintendent of elections had an opportunity to complete an investigation and determine whether matter should be referred to prosecutor. *Ruvoldt v. Tumulty*, 107 N.J.Super. 545, 259 A.2d 491 (L.1969), affirmed 107 N.J.Super. 494, 259 A.2d 465.

2. Counsel

Since complaint by clerk of board of elections to county prosecutor concerning election irregularities was made to wrong official, public interest required that right official, namely the superintendent of elections, undertake an investigation without awaiting further notification and, in this regard, superintendent could call on assistance of his statutory counsel, the

Attorney General, to advise him on any legal aspects of investigation or to assist him in conduct of his examination of witnesses. *Ruvoldt v. Tumulty*, 107 N.J.Super. 545, 259 A.2d 491 (L.1969), affirmed 107 N.J.Super. 494, 259 A.2d 465.

3. Quasi-judicial powers

L.1928, c. 291, p. 943, § 1 et seq., repealed, requiring superintendent of elections to investigate registry lists and determine qualifications of voters invested him with both quasi judicial and ministerial functions, not inhibited by Constitution. In re Freeholders of Hudson County, 105 N.J.L. 57, 143 A. 536 (1928), motion denied 106 N.J.L. 62, 144 A. 169.

4. Books, records and papers

This section does not impose duty, but merely confers authority on superintendent of elections to examine books; word "any" being used in comprehensive sense of "all." *Ferguson v. Brogan*, 112 N.J.L. 471, 171 A. 685 (1934).

5. Ballots

This section does not authorize inspection of ballots and ballot boxes. *Ferguson v. Brogan*, 112 N.J.L. 471, 171 A. 685 (1934).

6. Right to vote

L.1928, c. 291, p. 943, repealed, providing for investigation and purging of registry lists was not unconstitutional, as

Note 6

depriving legally qualified voters of right to vote. In re Freeholders of Hudson County, 105 N.J.L. 57, 143 A. 536 (1928), motion denied 106 N.J.L. 62, 144 A. 169.

7. Crimes and offenses

It is clear that legislature intended that its duly established administrative expert in election matters, the superintendent of

elections, should have primary responsibility to investigate alleged violations of election laws but, after superintendent concludes his investigation, he may, if he feels there is reasonable evidence to warrant criminal action, refer his report to prosecutor for action before grand jury. *Ruvoldt v. Tumulty*, 107 N.J.Super. 545, 259 A.2d 491 (L.1969), affirmed 107 N.J.Super. 494, 259 A.2d 465.

19:32-6. Subpoenas; power to issue; service; failure to testify; false statements

The superintendent shall have power to issue subpoenas for the purpose of investigating any complaint of violation of the election laws of the state, such subpoenas to be issued in the name of the superintendent and for the purpose of aiding him in enforcing the provisions of the election laws. He may in proper cases issue subpoenas duces tecum. A subpoena issued by the superintendent may be served by any peace officer or any other person designated by him for that purpose.

A person who shall omit, neglect or refuse to obey a subpoena attested in the name of the superintendent and made returnable by him or who shall refuse to testify under oath before such superintendent shall be guilty of a misdemeanor and punished accordingly.

A person who shall make any false statement under oath before the superintendent shall be guilty of a misdemeanor and punished accordingly.

Historical and Statutory Notes

Source: L.1930, c. 187, ¶411, p. 865.

Rules

Subpoenas, generally, see Rule 1:9-1 et seq., set out in the New Jersey Rules of Court Pamphlet.

Library References

Elections ⇨54.

WESTLAW Topic No. 144.

C.J.S. Elections § 54 et seq.

Texts and Treatises

26 Am Jur 2d, Elections § 392.

Notes of Decisions

Subpoenas 1

1. Subpoenas

Language of this section providing that superintendent of elections shall have power to issue subpoenas for purpose of investigating any complaint of violation of election laws of the state is unambigu-

ous and is all encompassing, and authority of superintendent of elections is not only effective as to subpoena power but, under statute, superintendent of elections has the right and the power and the duty of investigating any complaint of any violation of any election law in state. *Ruvoldt v. Tumulty*, 107 N.J.Super. 545, 259 A.2d 491 (L.1969), affirmed 107 N.J.Super. 494, 259 A.2d 465.

19:32-7. Attendance at elections; admission to polling places

The superintendent, his subordinates, or any person or persons designated by him, may attend at any election, any of whom shall be admitted at any time within any polling place and within the guard rails thereof.

Historical and Statutory Notes

Source: L.1930, c. 187, §412, p. 866.

Library References

Texts and Treatises

25 Am Jur 2d, Elections § 45.

19:32-8. Register of lodgers

When directed by the superintendent every landlord, proprietor, lessee or keeper of a lodging house, inn or hotel, shall keep a register in which shall be entered the names and residences, the date of arrival and departure of his guests, and the room, rooms or bed occupied by them. This register shall be arranged so that there shall be a space on the same line in which each male guest or male lodger shall sign his name.

Such landlord, proprietor, lessee or keeper shall make a sworn report upon a blank to be prepared and furnished by the superintendent thirty days before the election next ensuing to such superintendent, containing a detailed description of the premises so used and occupied as a lodging house, inn or hotel, including the size and character of building, and in case only part of a building is so used, a statement as to what part, and the names of the lodgers therein, and all the employees, and all other persons living therein, including the landlord, proprietor, lessee or keeper, and members of his family, who claim a voting residence at or in such lodging house, inn or hotel, together with the length of time they have been regularly lodged or lived therein, the beginning of such residence, the color, approximate age, height, weight, whereby the persons may be identi-

fied, the nationality, the occupation and place of business of such persons, and the room occupied by each person, and whether the person is a guest, landlord, proprietor, lessee or keeper, and the signature of each person. Above the space reserved for the signature of each such person shall be printed the following words, "the foregoing statements are true." In the form of affidavit, which shall be sworn to by the landlord, proprietor, lessee or keeper of such lodging house, inn or hotel, shall be included the statement that the signatures of the guests or lodgers certified to in such report were written in the presence of such landlord, proprietor, lessee or keeper, and that he personally knows them to be the persons therein described.

To the end that the sworn report herein required shall truly set forth the facts therein stated, such landlord, proprietor, lessee or keeper shall question each male person lodging or living in the lodging house, inn or hotel, as to his intention of claiming such place as a voting residence, and the person shall thereupon declare his intention thereof, and if he shall claim the place as his voting residence, he shall give to such landlord, proprietor, lessee or keeper such facts regarding himself as are required to be incorporated in the sworn report herein provided for. Such report and affidavit shall be filed personally by the landlord, proprietor, lessee or keeper with the superintendent at his office.

Any such landlord, proprietor, lessee or keeper or any lodger who shall violate this section shall be deemed guilty of a misdemeanor.

Historical and Statutory Notes

Source: L.1930, c. 187, §413, p. 866.

19:32-9. Card records of persons registered in municipalities not having permanent registration

The district board of each election district in municipalities not having permanent registration shall on each day of registration transfer to cards to be provided for that purpose by the county clerk of the county, which cards shall be in form and style approved by the superintendent, a complete copy of the name of each person registered in its respective district, together with all the answers made and information given by such person at the time of registration, and such cards, inclosed and sealed in a cover, to be provided for that purpose by the county clerk, shall be delivered personally or by mail forthwith by the chairman of such district board, together with a statement on a blank form to be furnished by the county clerk, after approval by the superintendent, that the cards delivered contain a correct copy of all the names registered and information given by the

person so registered, to the superintendent at his office in the county courthouse.

Historical and Statutory Notes

Source: L.1930, c. 187, §1414, p. 867.

19:32-10. Challenge lists in municipalities not having permanent registration

In respect to each general, primary, municipal and special election, the superintendent shall prepare for each election district in the county a challenge list containing the names, alphabetically arranged, and the addresses of all persons who have lost the right to register from the addresses within such election district from which they registered at the last preceding election. Such challenge list shall be delivered to the respective district boards in such municipalities at least one-half hour before the commencement of registration. The chairman of the respective district boards shall challenge the registration of any person applying to them for registration under any name on such challenge list, unless it shall affirmatively appear after strict examination of the voter, and, if necessary, of others, that such voter is domiciled at a new address within the election district. At the close of the last day of registration, the challenge list with the remarks of the district board or of any member or members thereof to be noted thereon shall be signed and certified as true by each member of the respective district boards and returned to the superintendent in a sealed envelope provided therefor.

After the last day of registration and before each general, primary, municipal and special election, the superintendent shall also prepare for each election district a challenge list containing the names, alphabetically arranged, and addresses of all persons registered in the district whom he believes or has reason to suspect are not entitled to vote at the election in the district. Such challenge list shall be delivered to the respective district boards at least one-half hour before the opening of the polls at each election. The chairman of the respective district boards shall challenge the vote of any person presenting himself to vote under any name on the challenge list. The challenge list shall contain a column headed "remarks", and the chairman of the respective district boards shall enter therein opposite the names on such list whether any person applying to vote under any name thereon who was challenged was allowed to vote, and the reason for allowing him to vote.

All persons whose names appear on any challenge list before being allowed to vote shall subscribe to an affidavit on forms supplied by the superintendent to the respective district boards together with the

challenge list. Any members of the district boards are hereby empowered to take such affidavits. The affidavit shall show that the affiant is eligible to vote in that district and shall set forth the place of his residence, the fact that he actually resides at that place, the length of time of such residence, and also all the facts necessary to qualify him as a voter under the constitution of this state. A copy of the affidavit signed by the challenged voter shall be given to the affiant. At the close of the polls the affidavits shall be returned to the superintendent in an envelope provided therefor and they shall be preserved in the office of the superintendent.

If a person applying to vote under any name on the challenge list is challenged and does not vote, there shall be entered opposite his name in such column the words "challenged, but did not vote". If no person applies to vote under any name on such challenge list, there shall be noted opposite each such name in such column the words "no application". At the close of the polls the challenge list shall be signed and certified as true by each member of the respective district boards and returned to the superintendent of the county in a sealed envelope provided therefor.

If a person applying to vote is challenged and denied the right to vote because that person's name appears on a challenge list prepared by the superintendent of elections, that challenged voter may apply to a Superior Court Judge sitting at the county seat for permission to vote, as provided in R.S. 19:32-18.

The superintendent, concurrently with delivering the challenge lists, shall deliver to the commissioner a true copy, certified by him as correct, of each challenge list delivered by him pursuant to this section to each district board in municipalities having permanent registration.

The superintendent shall prepare duplicates of all challenge lists provided for in this section, and shall keep duplicate challenge lists on file in his office from the time of their preparation until the close of the third general election following their preparation. The original challenge lists shall also be kept on file for two years after the general election following their preparation. All such challenge lists shall be open to inspection by any citizen at any time the superintendent's office is open for business.

Amended by L.1991, c. 249, § 7, eff. Nov. 6, 1991.

Historical and Statutory Notes

Statement: Committee statement to Assembly, No. 2079—L.1991, c. 249, see § 19:15-18.1.

Source: L.1930, c. 187, ¶415, p. 868, amended by L.1933, c. 113, § 3, p. 230.

Library References

Texts and Treatises

25 Am Jur 2d, Elections §§66-78.

19:32-11. Sealing, preserving and opening ballot boxes

The superintendent, his chief deputy or assistants, shall have the power, when in his or their judgment it is deemed necessary at any election, upon the completion of the counting and canvassing of the ballots by any district board, to enter any place containing ballot boxes for the purpose of taking possession and sealing any ballot box or boxes with a seal to be adopted by the superintendent. When any ballot box shall be so sealed it may be removed to a vault or other place of security by the superintendent, his chief deputy or assistants, but shall not be opened and the seal thereof destroyed or affected without an order first had and obtained from a judge of the Superior Court assigned to the county. Taping or any other mechanical device may be used to make such sealing secure.

Amended by L.1953, c. 19, p. 347, § 47.

Historical and Statutory Notes

Source: L.1930, c. 187, § 416, p. 869,
amended by L.1933, c. 113, § 4, p. 233.

Library References

Elections ⇨255.

WESTLAW Topic No. 144.

C.J.S. Elections § 234.

Texts and Treatises

26 Am Jur 2d, Elections §§230-233.

Notes of Decisions

Opening ballot boxes 1**1. Opening ballot boxes**

Refusal of Chief Justice sitting as statutory officer under this section and

§ 19:18-8 to grant application of superintendent of elections for authorization of open ballot boxes was proper, where proposed inspection of ballots was unrelated to registration of voters. *Ferguson v. Brogan*, 112 N.J.L. 471, 171 A. 685 (1934).

19:32-12. Interference with sealing of ballot boxes; misdemeanor

Any person preventing, hindering or interfering with the said superintendent or his chief deputy or assistants in sealing such ballot box or boxes shall be guilty of a misdemeanor, and shall be punished

by imprisonment for a term not exceeding three years, or by the payment of a fine not exceeding one thousand dollars, or both.

Historical and Statutory Notes

Source: L.1930, c. 187, ¶417, p. 870.

19:32-13. Destroying, removing or defacing seals on ballot boxes; misdemeanor

Any person who destroys, defaces or removes, or attempts to destroy, deface or remove, such a seal shall be guilty of a misdemeanor, and shall be punished by imprisonment for a term not exceeding three years, or by the payment of a fine not exceeding one thousand dollars, or both.

Historical and Statutory Notes

Source: L.1930, c. 187, ¶418, p. 870.

Library References

Texts and Treatises

26 Am Jur 2d, Elections § 385.

19:32-14. When powers of superintendents and deputies exercisable

The powers herein granted may be exercised by the superintendent, his chief deputy or assistants, upon the completion of the counting and canvassing of the ballots at any election by the district board or within a period of ninety days thereafter.

Historical and Statutory Notes

Source: L.1930, c. 187, ¶419, p. 870.

19:32-15 to 19:32-20. Repealed by L.1994, c. 182, § 45

Historical and Statutory Notes

Repealed § 19:32-15, relating to peremptory orders to refuse permission to vote, was derived from L.1930, c. 187, ¶420; L.1940, c. 32, § 2.

Repealed § 19:32-16, relating to notice to voters of peremptory orders, was derived from:

L.1930, c. 187, ¶421.
L.1941, c. 273, § 3.
L.1945, c. 40, § 1.

Repealed § 19:32-17, relating to delivery of peremptory orders to district boards, their use, and transfer of names, was derived from:

L.1930, c. 187, ¶422.
L.1940, c.31.
L.1945, c. 19, § 1.

Repealed § 19:32-18, relating to applications to a superior court judge for orders allowing voters to vote and to reregistration, was derived from:

L.1930, c. 187, ¶423.

L.1940, c. 31, § 4.

L.1940, c. 199, § 1.

L.1948, c. 438, § 10.

L.1953, c. 19, § 48.

L.1991, c. 91, § 252.

Repealed § 19:32-19, relating to the penalty for disobeying peremptory orders, was derived from:

L.1930, c. 187, ¶424.

L.1940, c. 199, § 2.

L.1948, c. 438, § 11.

L.1953, c. 19, § 49.

L.1991, c. 91, § 253.

Repealed § 19:32-20, relating to the expense of service, mailing or advertising notice, was derived from L.1930, c. 187, ¶425.

L.1994, c. 182, § 46, approved Dec. 20, 1994, provides:

"This act shall take effect immediately [Dec. 20, 1994] but shall remain inoperative until January 1, 1995."

19:32-21. Police powers of superintendents, deputies and assistants

The superintendent and his chief deputy and assistants shall have and possess all the powers of constables, policemen and other peace officers.

Historical and Statutory Notes

Source: L.1930, c. 187, ¶426, p. 874.

Cross References

State police, cooperation with superintendent of elections, see § 53:2-1.

19:32-22. Arrests without warrant; peace officers punishable for failure to assist

The superintendent and his chief deputy and assistants are hereby authorized and empowered and without warrant, to arrest any person violating any provision of this title.

The superintendent and his chief deputy and assistants, as the case may be, shall have the right and power to call upon any constable, police officer or other peace officer to aid in taking any person so arrested to the nearest police station in the municipality in which the arrest is made, and such constable, police officer or other peace officer shall render such aid.

Any constable, police officer or other peace officer failing to comply with such request shall be guilty of a misdemeanor.

Historical and Statutory Notes

Source: L.1930, c. 187, ¶427, p. 874, amended by L.1933, c. 113, § 5, p. 233.

19:32-23. Detention of persons arrested

Upon delivering the person so arrested to the officer in charge of the police station to which he is removed, such officer shall hold and

detain the person so arrested until ordered released by the magistrate taking the complaint hereinafter provided for or by other process of law.

Historical and Statutory Notes

Source: L.1930, c. 187, §428, p. 874.

19:32-24. Complaint against person arrested; hearing by magistrate

Upon delivering the person so arrested to the officer in charge of such police station the superintendent or his chief deputy and assistants, as the case may be, making the arrest, shall forthwith and as soon as may be make and sign before a magistrate of the municipality in which the arrest was made a complaint in writing, duly verified, setting forth the particular act for which such person was arrested. Upon the complaint being made, the magistrate before whom it is made shall forthwith and as soon as may be cause the person so arrested to be brought before him and proceed on such complaint, as in the case of other persons arrested on a complaint charging a criminal offense.

Historical and Statutory Notes

Source: L.1930, c. 187, §429, p. 875.

Rules

Proceedings before committing judge; pretrial release, see Rule 3:4-1 et seq., set out in the New Jersey Rules of Court Pamphlet.

19:32-25. Removal of persons from polling places

The superintendent, his chief deputy and assistants are hereby authorized and empowered to remove from any polling place or place where any election is being held any person found violating any provision of this title or in any way unlawfully interfering with the lawful conduct of any election.

Historical and Statutory Notes

Source: L.1930, c. 187, §430, p. 875,
amended by L.1933, c. 113, § 6, p. 234.

19:32-26. Second and fifth class counties; establishment of office of superintendent of elections; appointment; salary; term; vacancies

In any county of the second class and in any county of the fifth class, the governing body may establish, by ordinance or resolution,

as appropriate, the office of superintendent of elections for the county, and said office when once established shall not be altered or abolished.

The governing body shall file a certified copy of such ordinance or resolution, attested by the chief elected executive officer or director of the board of freeholders, if appropriate and clerk of the board, in the office of the Secretary of State within 10 days after adoption, and the ordinance or resolution shall take effect at the expiration of 30 days after the next primary election for the general election, or the next general election, after adoption whichever shall occur first.

The office so established shall be filled by some suitable person who shall be nominated by the Governor with the advice and consent of the Senate for a term of five years from the date of his appointment and until his successor is appointed and shall have qualified. In the event that no such appointment to such office is made within 30 days following the taking effect of the ordinance or resolution, heretofore or hereafter adopted, of the governing body of the county, as herein provided, then the governing body of the county shall appoint some suitable person to fill such office for a term of five years from the date of appointment and until the successor of such person is in the same manner appointed and shall have qualified. The governing body shall file notice of such appointment in the office of the Secretary of State.

Each superintendent so appointed in a county of the fifth class shall receive a salary of not less than \$4,000 nor more than \$8,000 per annum and each superintendent so appointed in a county of the second class shall receive a salary in such amount, not less than \$4,000 per annum, as shall be determined by the governing body of the county ; such salaries shall be paid by the county treasurer and the superintendent shall have his office in the county for which he is appointed.

Any vacancy occurring in such office of superintendent of elections shall be filled in the same manner as the original appointment to such office was made, but for the unexpired term. Any person filling a vacancy shall be from the same political party as the original appointee.

L.1947, c. 167, p. 726, § 1. Amended by L.1949, c. 188, p. 633, § 2; L.1953, c. 84, p. 1010, § 2; L.1953, c. 246, p. 1731, § 1; L.1953, First Sp.Sess., c. 444, p. 2433, § 1; L.1965, c. 153, § 1; L.1971, c. 146, § 1, eff. May 20, 1971; L.1981, c. 462, § 26; L.1989, c. 160, § 3, eff. Aug. 11, 1989; L.1992, c. 17, § 3, eff. June 12, 1992.

Historical and Statutory Notes

Effective date of L.1981, c. 462, see Historical Note under § 2A:4-4.

Title of Act:

An act to authorize the board of chosen freeholders of certain counties of the second or fifth class to establish the office of superintendent of elections for said coun-

ty and providing for the appointment, term of office and compensation of such superintendent of elections and fixing his powers and duties, and supplementing Title 19 of the Revised Statutes. L.1947, c. 167, p. 726, as amended L.1949, c. 188, p. 632, § 1; L.1953, c. 84, p. 1009, § 1.

Cross References

Classification of counties for legislative purposes, see § 40A:6-1 et seq.

Library References

Elections ⇨49.

WESTLAW Topic No. 144.

C.J.S. Elections § 56.

Notes of Decisions

Appointment of superintendent 3

State office 2

Validity 1

Meredith v. Mercer County Bd. of Chosen Freeholders, 117 N.J.Super. 379, 285 A.2d 27 (L.1970), affirmed 117 N.J.Super. 368, 285 A.2d 21, affirmed 59 N.J. 530, 284 A.2d 529.

1. Validity

This section purporting to authorize the appointment of a superintendent of elections in certain counties is unconstitutional as special legislation, since, inter alia, within the fifth-class county classification Monmouth and Atlantic would qualify while Ocean County is forever excluded, since, in respect to second-class counties, there is a permanent exclusion of Union and Camden Counties, and since sixth-class counties, should they ever become fifth-class counties, could not qualify under this section. *Mooney v. Board of Chosen Freeholders of Atlantic County*, 122 N.J.Super. 151, 299 A.2d 426 (L.1973), affirmed 125 N.J.Super. 271, 310 A.2d 502.

2. State office

Office of superintendent of elections in second-class counties was a state office.

3. Appointment of superintendent

Under this section authorizing creation of office of superintendent of elections, appointive power of board of freeholders exists only on first occasion after adoption of resolution if governor does not exercise his rights of appointment within 30-day period and, if governor relinquishes his rights to make an appointment within 30 days following the taking effect of the resolution and board of freeholders exercises its right to appoint, any future appointments or any vacancies thereafter must be filled by governor with advice and consent of Senate. *Meredith v. Mercer County Bd. of Chosen Freeholders*, 117 N.J.Super. 379, 285 A.2d 27 (L.1970), affirmed 117 N.J.Super. 368, 285 A.2d 21, affirmed 59 N.J. 530, 284 A.2d 529.

19:32-26.1. Office of deputy superintendent of elections established in second class counties; appointment; salary; term of office; vacancies

The governing body of a county of the second class in which the office of superintendent of elections for the county has been estab-

lished pursuant to section 1 of P.L.1947, c.167 (C.19:32-26) may establish, by ordinance or resolution, as appropriate, the office of deputy superintendent of elections. The office of deputy superintendent of elections in each such county shall be filled by a suitable person who shall be nominated by the Governor with the advice and consent of the Senate, who shall not be from the same political party as the superintendent of elections, and who shall hold office for a term of five years, running concurrently with the term of the superintendent and until the deputy superintendent's successor is appointed and has qualified. The initial appointment to the office of deputy superintendent of elections may be for a partial term, as appropriate. Vacancies shall be filled in the same manner as the original appointment but shall be for the unexpired term only. The annual salary of a deputy superintendent of elections shall be 90% of the salary received by the superintendent of elections of the same county for performing the duties of superintendent of elections and commissioner of registration. The office of the deputy superintendent of elections shall be located in the county making the appointment.

L.1992, c. 17, § 1, eff. June 12, 1992.

Historical and Statutory Notes

Title of Act:	counties, amending P.L.1947, c.167, and supplementing chapter 32 of Title 19 of the Revised Statutes.
An Act creating the office of deputy superintendent of elections in certain	

19:32-26.2. Powers and duties of deputy superintendent of elections of second class county

A deputy superintendent of elections appointed pursuant to section 1 of P.L.1992, c. 17 (C.19:32-26.1) shall assist the superintendent of elections in the performance of the superintendent's duties, shall serve as superintendent in the absence of the superintendent, and shall have such powers and duties as the superintendent may delegate from time to time. In addition, the deputy superintendent is constituted the chief deputy of the superintendent and shall have all of the powers and duties of the chief deputy. No county with a deputy superintendent so appointed shall also have a chief deputy appointed pursuant to R.S.19:32-27.

L.1992, c. 17, § 2, eff. June 12, 1992.

19:32-27. Deputy, clerk, secretary and other assistants; expenses

Except as provided in section 2 of P.L.1992, c.17 (C.19:32-26.2), each superintendent may appoint a chief deputy, a clerk, a secretary and any other assistants he considers necessary to carry out the provisions of this Title, and may remove the same whenever he

deems it necessary. Those so appointed shall not be subject to any of the provisions of Title 11,¹ Civil Service, but shall be in the unclassified service. Each superintendent shall fix the salaries of the persons so appointed and such salaries certified to and approved under his hand shall be paid semimonthly by the county treasurer of the county in which such persons are so engaged. All other necessary expenses incurred in carrying out the provisions of this Title when certified to and approved by the superintendent shall be paid by the county treasurer of the county in which the superintendent shall maintain his office.

L.1947, c. 167, p. 727, § 2. Amended by L.1992, c. 17, § 4, eff. June 12, 1992.

¹ Repealed. See, now, Title 11A.

Library References

Elections ⇐51.

WESTLAW Topic No. 144.

C.J.S. Elections § 57 et seq.

Notes of Decisions

Labor relations 2

Repeals 1

Salaries and expenses 3

1. Repeals

Appointment and salary provisions relating to the superintendent of elections have not been impliedly repealed. *Mercer County v. Mercer County Superintendent of Elections*, 172 N.J.Super. 406, 412 A.2d 461 (A.D.1980).

2. Labor relations

To permit the superintendent of elections to engage in collective negotiations with employees did not obligate taxpayers to carry additional financial burden in deprivation of republican form of government guaranteed by United States Constitution. *Mercer County v. Mercer County Superintendent of Elections*, 172 N.J.Super. 406, 412 A.2d 461 (A.D.1980).

Despite fact that county maintains personnel records of employees in office of superintendent of elections and that county pays salaries determinative of identity of employer, superintendent of elections rather than county was the "employer" of personnel in his office for purposes of collective negotiation. *Mercer County v. Mercer County Superintendent of Elections*, 172 N.J.Super. 406, 412 A.2d 461 (A.D.1980).

3. Salaries and expenses

Board of freeholders could not refuse to provide resources to either board of elections or superintendent of elections, since statutory provisions relating to needs of the board and superintendent are not discretionary, but mandatory. *Trainor v. Burlington County Bd. of Chosen Freeholders*, 200 N.J.Super. 288, 491 A.2d 69 (L.1984).

19:32-28. Expenses of election held in municipality

All necessary expenses incurred in carrying out the provisions of this Title when certified to and approved by such superintendent in connection with an election held in and for a municipality only shall be paid by the municipality.

L.1947, c. 167, p. 727, § 3.

Library References

Municipal Corporations Ⓒ259.
 WESTLAW Topic No. 268.
 C.J.S. Municipal Corporations § 1032.

19:32-29. Offices, equipment and supplies

The board of chosen freeholders of such counties shall provide suitable room or rooms for the transaction of the business of such superintendent and procure suitable furniture therefor and any books, stationery, fuel and supplies that may be necessary from time to time. It shall provide a proper place for the safe-keeping of the records and papers.

L.1947, c. 167, p. 727, § 4.

Library References

Counties Ⓒ134.
 WESTLAW Topic No. 104.
 C.J.S. Counties § 174.

Notes of Decisions

Discretion of board 1**1. Discretion of board**

Board of freeholders could not refuse to provide resources to either board of

elections or superintendent of elections, since statutory provisions relating to needs of the board and superintendent are not discretionary, but mandatory. *Trainor v. Burlington County Bd. of Chosen Freeholders*, 200 N.J.Super. 288, 491 A.2d 69 (L.1984).

19:32-30. Investigations by superintendents and assistants; neglect to furnish information or exhibit records

Such superintendents and their assistants, in order to enforce the laws of this State regarding the conduct of elections, shall investigate all complaints relating to the registration of voters, and for that purpose the superintendents and their assistants shall have full power and authority to visit and inspect any house, dwelling, building, inn, lodging house or hotel and interrogate any inmate, house-dweller, keeper, caretaker, owner, proprietor or landlord thereof or therein as to any person or persons residing or claiming to reside therein or thereat; to inspect and copy any books, records, papers or documents relating to or affecting the elections, either general, special, primary or municipal, or the registration of voters in the custody and control of district boards, county boards, or the clerks or other officers of municipalities; to require every lodging-house keeper, landlord or proprietor to exhibit his register of lodges therein at

any time to the superintendent, his subordinates or any other person so designated by such superintendent.

Any person who neglects or refuses to furnish any information required or authorized by this Title, or to exhibit the records, papers, or documents herein authorized to be inspected, or which are required to be exhibited, shall be guilty of a misdemeanor.

L.1947, c. 167, p. 727, § 5.

Library References

Elections ⇨54.

WESTLAW Topic No. 144.

C.J.S. Elections § 54 et seq.

Texts and Treatises

25 Am Jur 2d, Elections §§44, 45.

19:32-31. Subpoenas; refusal to obey; false statements

The superintendent shall have power to issue subpoenas for the purpose of investigating any complaint of violation of the election laws of the State, such subpoenas to be issued in the name of the superintendent and for the purpose of aiding him in enforcing the provisions of the election laws. He may in proper cases issue subpoenas duces tecum. A subpoena issued by the superintendent may be served by any peace officer or any other person designated by him for that purpose.

A person who shall omit, neglect or refuse to obey a subpoena attested in the name of the superintendent and made returnable by him or who shall refuse to testify under oath before such superintendent shall be guilty of a misdemeanor and punished accordingly.

A person who shall make any false statement under oath before the superintendent shall be guilty of a misdemeanor and punished accordingly.

L.1947, c. 167, p. 728, § 6.

Rules

Subpoenas, generally, see Rule 1:9-1 et seq., set out in the New Jersey Rules of Court Pamphlet.

Library References

Witnesses ⇨1, 8, 22.

WESTLAW Topic No. 410.

C.J.S. Witnesses §§ 2 to 28.

19:32-32. Attendance at elections; admission to polling places

The superintendent, his subordinates, or any person or persons designated by him, may attend at any election, any of whom shall be admitted at any time within any polling place and within the guard rails thereof.

L.1947, c. 167, p. 728, § 7.

Library References

Elections Ⓒ209.

WESTLAW Topic No. 144.

C.J.S. Elections §§ 192, 200.

19:32-33. Register of guests and lodgers in lodging houses, inns and hotels

When directed by the superintendent, every landlord, proprietor, lessee or keeper of a lodging house, inn or hotel shall keep a register in which shall be entered the names and residences, the date of arrival and departure of his guests, and the room, rooms or bed occupied by them. This register shall be arranged so that there shall be a space on the same line in which each male guest or male lodger shall sign his name.

Such landlord, proprietor, lessee or keeper shall make a sworn report upon a blank to be prepared and furnished by the superintendent thirty days before the election next ensuing to such superintendent, containing a detailed description of the premises so used and occupied as a lodging house, inn or hotel, including the size and character of building, and in case only part of a building is so used, a statement as to what part, and the names of the lodgers therein, and all the employees, and all other persons living therein, including the landlord, proprietor, lessee or keeper, and members of his family, who claim a voting residence at or in such lodging house, inn or hotel, together with the length of time they have been regularly lodged or lived therein, the beginning of such residence, the color, approximate age, height, weight, whereby the persons may be identified, the nationality, the occupation and place of business of such persons, and the room occupied by each person, and whether the person is a guest, landlord, proprietor, lessee or keeper, and the signature of each person. Above the space reserved for the signature of each such person shall be printed the following words, "the foregoing statements are true." In the form of affidavit, which shall be sworn to by the landlord, proprietor, lessee or keeper of such lodging house, inn or hotel, shall be included the statement that the signatures of the guests or lodgers certified to in such report were written in the presence of such landlord, proprietor, lessee or keeper,

and that he personally knows them to be the persons therein described.

To the end that the sworn report herein required shall truly set forth the facts therein stated, such landlord, proprietor, lessee or keeper shall question each male person lodging or living in the lodging house, inn or hotel as to his intention of claiming such place as a voting residence, and the person shall thereupon declare his intention thereof, and if he shall claim the place as his voting residence he shall give to such landlord, proprietor, lessee or keeper such facts regarding himself as are required to be incorporated in the sworn report herein provided for. Such report and affidavit shall be filed personally by the landlord, proprietor, lessee or keeper with the superintendent at his office.

Any such landlord, proprietor, lessee or keeper or any lodger who shall violate this section shall be deemed guilty of a misdemeanor. L.1947, c. 167, p. 729, § 8.

Library References

Innkeepers ☞2.

WESTLAW Topic No. 213.

C.J.S. Inns, Hotels, and Eating Places
§§ 6, 7.

19:32-34. Sealing, preserving and opening ballot boxes

The superintendent, his chief deputy or assistants, shall have the power, when in his or their judgment it is deemed necessary at any election, upon the completion of the counting and canvassing of the ballots by any district board, to enter any place containing ballot boxes for the purpose of taking possession and sealing any ballot box or boxes with a seal to be adopted by the superintendent. When any ballot box shall be so sealed it may be removed to a vault or other place of security by the superintendent, his chief deputy or assistants, but shall not be opened and the seal thereof destroyed or affected without an order first had and obtained from a judge of the Superior Court assigned to the county. Taping or any other mechanical device may be used to make such sealing secure.

L.1947, c. 167, p. 730, § 9. Amended by L.1953, c. 19, p. 349, § 50.

Library References

Elections ☞255.

WESTLAW Topic No. 144.

C.J.S. Elections § 234.

Texts and Treatises

26 Am Jur 2d, Elections §§230 to 233.

19:32-35. Interference with sealing ballot boxes; misdemeanor

Any person preventing, hindering or interfering with the said superintendent or his chief deputy or assistants in sealing such ballot box or boxes shall be guilty of a misdemeanor, and shall be punished by imprisonment for a term not exceeding three years, or by the payment of a fine not exceeding one thousand dollars (\$1,000.00), or both.

L.1947, c. 167, p. 730, § 10.

Library References

Elections ⇨319.

WESTLAW Topic No. 144.

C.J.S. Elections § 330.

19:32-36. Destroying, removing or defacing seals on ballot boxes; misdemeanor

Any person who destroys, defaces or removes, or attempts to destroy, deface or remove, such a seal shall be guilty of a misdemeanor, and shall be punished by imprisonment for a term not exceeding three years, or by the payment of a fine not exceeding one thousand dollars (\$1,000.00), or both.

L.1947, c. 167, p. 731, § 11.

Library References

Elections ⇨309.

WESTLAW Topic No. 144.

C.J.S. Elections § 324, 334.

19:32-37. Exercise of powers by superintendent or assistants, when

The powers herein granted may be exercised by the superintendent, his chief deputy or assistants, upon the completion of the counting and canvassing of the ballots at any election by the district board or within a period of ninety days thereafter.

L.1947, c. 167, p. 731, § 12.

Library References

Elections ⇨54.

WESTLAW Topic No. 144.

C.J.S. Elections § 54 et seq.

Texts and Treatises

25 Am Jur 2d, Elections §§44, 45.

19:32-38 to 19:32-43. Repealed by L.1994, c. 182, § 45**Historical and Statutory Notes**

The repealed sections, relating to orders to refuse permission to vote; notice to registered persons of proposed action and time for signing orders; delivery and use of orders and transfer of registration forms of person named; applications to county court judge for orders allowing voters to vote; penalty for permitting person to vote in violation of orders; and

expenses of service, mailing or advertising notices, were derived from L.1947, c. 167, §§ 13 to 18; L.1953, c. 19, §§ 52, 52.

L.1994, c. 182, § 46, approved Dec. 20, 1994, provides:

"This act shall take effect immediately [Dec. 20, 1994] but shall remain inoperative until January 1, 1995."

19:32-44. Superintendent and assistants to have powers of peace officers

The superintendent and his chief deputy and assistants shall have and possess all the powers of constables, policemen and other peace officers.

L.1947, c. 167, p. 734, § 19.

Library References

Elections Ⓒ54.

WESTLAW Topic No. 144.

C.J.S. Elections § 54 et seq.

19:32-45. Arrest without warrant; aid of peace officers in taking arrested person to police station

The superintendent and his chief deputy and assistants are hereby authorized and empowered and without warrant, to arrest any person violating any provision of this Title.

The superintendent and his chief deputy and assistants, as the case may be, shall have the right and power to call upon any constable, police officer or other peace officer to aid in taking any person so arrested to the nearest police station in the municipality in which the arrest is made, and such constable, police officer or other peace officer shall render such aid.

Any constable, police officer or other peace officer failing to comply with such request shall be guilty of a misdemeanor.

L.1947, c. 167, p. 734, § 20.

Library References

Arrest ⇨62.

WESTLAW Topic No. 35.

C.J.S. Arrest § 10.

19:32-46. Detention of persons arrested

Upon delivering the person so arrested to the officer in charge of the police station to which he is removed, such officer shall hold and detain the person so arrested until ordered released by the magistrate taking the complaint hereinafter provided for or by other process of law.

L.1947, c. 167, p. 734, § 21.

Library References

Arrest ⇨70(1).

WESTLAW Topic No. 35.

C.J.S. Arrest §§ 61, 62.

19:32-47. Complaint against person arrested; hearing by magistrate

Upon delivering the person so arrested to the officer in charge of such police station the superintendent or his chief deputy and assistants, as the case may be, making the arrest, shall forthwith and as soon as may be make and sign before a magistrate of the municipality in which the arrest was made a complaint in writing, duly verified, setting forth the particular act for which such person was arrested. Upon the complaint being made, the magistrate before whom it is made shall forthwith and as soon as may be cause the person so arrested to be brought before him and proceed on such complaint, as in the case of other persons arrested on a complaint charging a criminal offense.

L.1947, c. 167, p. 734, § 22.

Rules

Proceedings before committing judge; pretrial release, see Rule 3:4-1 et seq., set out in the New Jersey Rules of Court Pamphlet.

Library References

Arrest ⇨70(1).

WESTLAW Topic No. 35.

C.J.S. Arrest §§ 61, 62.

19:32-48. Removal of persons from polling places

The superintendent, his chief deputy and assistants are hereby authorized and empowered to remove from any polling place or place where any election is being held any person found violating any provision of this Title or in any way unlawfully interfering with the lawful conduct of any election.

L.1947, c. 167, p. 735, § 23.

Library References

Elections ⇨211.

WESTLAW Topic No. 144.

C.J.S. Elections § 200.

19:32-49. Superintendent constituted commissioner of registration; custody of voting machines; deputy superintendent constituted deputy commissioner of registration

In addition to the foregoing, the superintendent of elections is constituted the commissioner of registration for the county and he shall, within the county, have and exercise all the powers of, and be charged with all the duties had and exercised and required to be performed by, the superintendent of elections and the commissioner of registration in any county, including the custody and control of voting machines heretofore or hereafter installed in the county in any manner provided by law, except those heretofore or hereafter installed in any municipality by the governing body thereof, which shall be placed and remain in the custody of the municipal clerk unless taken over the county according to law. The deputy superintendent of elections in counties of the first class, and in counties of the second class in which the governing body has established the office of superintendent of elections for the county, is constituted the deputy commissioner of registration.

L.1947, c. 167, p. 735, § 24. Amended by L.1982, c. 46, § 5, eff. June 29, 1982; L.1992, c. 17, § 5, eff. June 12, 1992.

Cross References

Classification of counties for legislative purposes, see § 40A:6-1 et seq.

Library References

Elections ⇨100.

WESTLAW Topic No. 144.

C.J.S. Elections § 42.

Texts and Treatises

26 Am Jur 2d, Elections §§230 to 233.

19:32-50. Salaries and expenses during fiscal year in which act takes effect

If during the fiscal year in which this act¹ becomes effective, the board of chosen freeholders of the county shall not have made provision in its annual budget for the payment of the salaries and other expenses of the superintendent of elections and his office during such fiscal year, all appropriations made in said budget to the county board of elections, except those made for the payment of the salaries of the members of said board and the expenses of the board in connection with the functions to be performed by it during said year, notwithstanding the provisions of this act, shall be transferred and made available to the superintendent of elections for the carrying out of the powers and functions vested in him under this act, which shall include all appropriations for (a) salaries and wages, except for the salaries of the members of the board, (b) the control and conduct of permanent registration, and (c) the custody, maintenance and distribution of voting machines.

L.1947, c. 167, p. 735, § 25.

¹ N.J.S.A. §§ 19:32-26 to 19:32-53.

Library References

Elections ⇄53.

WESTLAW Topic No. 144.

C.J.S. Elections § 63.

Notes of Decisions**Subsequent fiscal years 1****1. Subsequent fiscal years**

Provisions in act creating special authority to allow board of freeholders of

county to transfer appropriations to superintendent of elections from board of elections were not in effect for any year after 1947, the year in which the act took effect. *Trainor v. Burlington County Bd. of Chosen Freeholders*, 200 N.J.Super. 288, 491 A.2d 69 (L.1984).

19:32-51. Transfer of employees of county board of elections

All employees of the county board of elections of the county hereby are transferred to the office of superintendent of elections but the board of chosen freeholders may provide two clerks for the county board of elections and fix the salary to be paid to such clerks.

L.1947, c. 167, p. 736, § 26.

Library References

Elections ⇨51.

WESTLAW Topic No. 144.

C.J.S. Elections § 57 et seq.

19:32-52. Appropriations for salaries and expenses

In the event that said appropriations shall not be sufficient to provide full payment of the salaries and other expenses of the superintendent of elections and his office and of the county board of elections and its office, during such fiscal year, the board of chosen freeholders shall appropriate and use any county funds, not otherwise appropriated or dedicated, for such purposes.

L.1947, c. 167, p. 736, § 27.

Library References

Counties ⇨134.

WESTLAW Topic No. 104.

C.J.S. Counties § 174.

Notes of Decisions

Fiscal year 1

1. Fiscal year

Provisions in act creating special authority to allow board of freeholders of

county to transfer appropriations to superintendent of elections from board of elections were not in effect for any year after 1947, the year in which the act took effect. *Trainor v. Burlington County Bd. of Chosen Freeholders*, 200 N.J.Super. 288, 491 A.2d 69 (L.1984).

19:32-53. Voting machines, forms, records, etc. to be turned over

Upon the taking effect of such resolution the county board of elections of the county shall turn over to the superintendent of elections all voting machines of the county with the keys thereto, and all records, books, binders, folders, files, card indexes, documents and forms, used or unused, relating to or used or useful in connection with the registration of voters, or the use of voting machines, in the county, together with all racks, cabinets, furniture, equipment and supplies used or useful for the filing, storing, repair servicing or use of the same.

L.1947, c. 167, p. 736, § 28.

Library References

Elections ⇨54, 222.

WESTLAW Topic No. 144.

C.J.S. Elections §§ 54 et seq., 203.

Texts and Treatises

26 Am Jur 2d, Elections § 253.

CHAPTER 33

REMOVAL OF NAMES FROM REGISTERS BY COURTS

Section

19:33-1. Procedure.

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19:33-1. Procedure

A judge of the Superior Court shall order stricken from any register the name of any person who shall be shown to his satisfaction not to be entitled to vote at any election in the election district wherein he is registered, and the commissioner shall, upon such order, cause the name of such person to be stricken from the register.

Such judge shall hear an application to strike off in a summary manner at the time and day specified in the notice hereafter provided; but no name shall be stricken or ordered stricken from any such register in the absence of the person to be affected thereby, unless it shall appear to the judge by affidavit of the commissioner of registration or his deputy or assistant that notice by mail has been given such person, either personally or by leaving the same at his registered place of residence, or present actual residence, if known to the commissioner, at least five entire days before the day and time of hearing before such judge, that at such hearing application would be made to have the name of such registered person stricken from the register, and of the grounds on which such application would be based. Such judge shall not order any name stricken subsequent to the sixth Tuesday preceding any election. The commissioner shall notify the judge, five days before the day and time specified, when the

application will be made, and the judge shall hear the application at the time and day specified in the notice.

In addition to the notice by mail, the commissioner shall also publish in one or more newspapers within the county at least five entire days before the day and time of hearing before such judge, the names and registered addresses of such persons as shall be affected by this proceeding, giving notice through such publication of the time and place where the application is to be made for the removal of said names from the registry lists.

The judge shall cause a full record of the proceedings of such application, including the appearances and a statement of his findings of fact and law and of the order made pursuant thereto, to be taken stenographically, transcribed and filed in the office of the county clerk, which record shall be public. All costs and expenses of such proceedings shall be paid by the county. The commissioner of registration, after the hearing before the judge, shall transfer to the inactive file the permanent registration and record of voting forms of such persons as the judge shall have ordered stricken from the signature copy register pursuant to this section.

The registrant shall be immediately notified by the commissioner by mail of any transfer made pursuant to this section. In counties other than counties of the first class this notice by mail shall be sent in addition to the notice by publication.

Amended by L.1945, c. 270, p. 803, § 1; L.1953, c. 19, p. 350, § 53; L.1991, c. 91, § 256, eff. April 9, 1991.

Historical and Statutory Notes

Source: L.1930, c. 187, §§431, 432, p. 875, amended by L.1930, c. 278, § 1, p. 1283.

Library References

Elections ¶113.

WESTLAW Topic No. 144.

C.J.S. Elections § 49.

Texts and Treatises

25 Am Jur 2d, Elections §§93, 94.

Notes of Decisions

Related statutes	1
Residence	2
Striking of names	3
Temporary absence	4

1. Related statutes

This section providing for summary proceeding to strike names from permanent register of voters is not in conflict with § 19:31-11, since voter is not deprived of voting from bona fide residence if name is stricken from register. In re Sullivan, 17 N.J. Misc. 42, 5 A.2d 57 (1939).

2. Residence

This section providing for summary proceeding to strike names from permanent register of voters does not contemplate that voter can move from one part of an election district to another, establish a voting residence, and retain as his voting residence the place from which he moved. In re Sullivan, 17 N.J. Misc. 42, 5 A.2d 57 (1939).

3. Striking of names

Names of voters who, since last election, had left registered address, and whose present address was unknown, were subject to be stricken from permanent register of voters for that district.

In re Sullivan, 17 N.J. Misc. 42, 5 A.2d 57 (1939).

The use of the summary proceeding under this section to strike names from permanent register of voters is not limited to cases in which fraud in registry is alleged. In re Sullivan, 17 N.J. Misc. 42, 5 A.2d 57 (1939).

Names of voters who under the evidence resided permanently in rooming house would not be stricken from permanent register of voters for district wherein rooming house was located. In re Sullivan, 17 N.J. Misc. 42, 5 A.2d 57 (1939).

4. Temporary absence

Name of World War veteran would not be stricken from permanent register of voters of district wherein he resided because of his absence therefrom for a few months each year because of his health. In re Sullivan, 17 N.J. Misc. 42, 5 A.2d 57 (1939).

A temporary stay at a civilian conservation corps camp does not deprive voter of right to vote from the address, district, county, and state of which he is a resident, and name of voter will not be stricken from permanent register of voters because of such absence. In re Sullivan, 17 N.J. Misc. 42, 5 A.2d 57 (1939).

CHAPTER 34

CRIMES AND PENALTIES—ENFORCEMENT

Section

- 19:34-1. False registration or transfer; penalties.
- 19:34-1.1. Violations; penalties.
- 19:34-2. Offenses concerning nomination certificates or petitions.
- 19:34-3. Ballots; offenses concerning printing, distribution, possession and forgery thereof.
- 19:34-4. Voting by person convicted of disfranchising crime.
- 19:34-5. Interference with conduct of election.
- 19:34-6. Obstructing or interfering with polling place or voter.
- 19:34-7. Violation of ballot regulations.
- 19:34-8. Sample ballot not to be accepted.
- 19:34-9. Prompting voter.
- 19:34-10. Identifying or distinguishing marks on ballots.
- 19:34-11. Fraudulent voting; interference with election or canvass; misdemeanor.
- 19:34-12. Attempt to cast illegal vote; misdemeanor.
- 19:34-13. Attempts by election officers to discover how voter voted; misdemeanor.
- 19:34-14. Member of district board revealing knowledge of how voter voted.
- 19:34-15. Electioneering within or about polling place; misdemeanor.
- 19:34-16. Removal, destruction or mutilation of registry lists or voters' lists.
- 19:34-17. Unlawfully taking ballot box or removing contents; destroying ballots; willfully suppressing records.
- 19:34-18. Interfering with return of ballot boxes.
- 19:34-19. Insignia at polls.
- 19:34-20. Soliciting or procuring or assisting unlawful registration and other violations of election law.
- 19:34-21. Voting in wrong party ballot box.
- 19:34-22. False voting at primary.
- 19:34-23. Primary election officials acting before taking oath; willfully disregarding or violating rules.
- 19:34-24. Betting on election.
- 19:34-25. Bribery.
- 19:34-26. Perjury; subornation of perjury.
- 19:34-27. Improperly influencing or intimidating employees.
- 19:34-28. Threatening or intimidating voters.
- 19:34-29. Obstructing or interfering with voter.
- 19:34-30. Influencing of vote by employer; placards for such purpose.
- 19:34-31. Violation by person or corporation; misdemeanor; forfeiture of charter.
- 19:34-32. Contributions by insurance corporations.
- 19:34-33. Contributions by state, county or municipal committees.
- 19:34-34. Expenditures by party committee or organization or petitioners.
- 19:34-35. Other contributions and expenditures.

ELECTIONS

Section

- 19:34-36. Repealed.
19:34-37. Repealed.
19:34-38. Certain expenditures prohibited.
19:34-38.1 to 19:34-38.5. Repealed.
19:34-39. Other expenditures prohibited.
19:34-40. Receipts for certain purposes prohibited.
19:34-41. Payments and bank deposits in name of another.
19:34-42. Demand of contributions by office holders from other office holders.
19:34-42.1. Annual notice.
19:34-42.2. Violations; penalty.
19:34-43. Soliciting for religious and charitable organizations.
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19:34-45. Contributions by certain corporations.
19:34-46. Disfranchisement as additional penalty.
19:34-47. Second offense; punishment.
19:34-48. Neglect of duties.
19:34-49. Abetting violations of title.
19:34-50. Committeemen acting after their election voided.
19:34-51. Failure of delegate to national convention to surrender void certificate.
19:34-52. Indorsement of candidate by party committee before primary.
19:34-53. Failure to supply information.
19:34-54. Failure to obey subpoena or refusal to testify.
19:34-55. False statements under oath.
19:34-56. Disobedience of subpoena; civil penalty; body attachment; contempt of court.
19:34-57. Subpoenas; officers required to issue; expense of; not issued on election day.
19:34-58 to 19:34-61. Repealed.
19:34-62. Prosecutor of pleas to present violations to grand jury.
19:34-63. Assistant for prosecutor; employment by citizens.
19:34-64. Short title.
19:34-65. Person performing function in campaign of candidate for purpose of impeding campaign.
19:34-66. Knowing production, transmittal or dissemination of mass communication which appears to originate from or be on behalf of campaign of candidate for purpose of impeding campaign.
19:34-67. Payment of or lending money or other valuable consideration to person to induce violation of act.
19:34-68. Violators; disorderly persons.

Library References

Elections ⇨ 309 et seq.

WESTLAW Topic No. 144.

C.J.S. Elections §§ 324, 334.

United States Code Annotated

Crimes and offenses, elections and political activities, see 18 USCA § 592 et seq.

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19:34-1. False registration or transfer; penalties

If any member of the district board shall willfully refuse to enter in the canvassing books or upon the registers the name of any person legally entitled to vote, or shall register the name of any person contrary to the provisions of this title, such member shall be punished by a fine not exceeding one thousand dollars, or by imprisonment not exceeding two years, or both.

Any person who shall cause or procure his name to be registered in more than one election district, or shall cause or procure his name or that of any other person to be registered, knowing that he or such other person is not entitled to vote in the election district wherein such registry is made at the next election to be held therein, shall be punished for each such offense by a fine not exceeding one thousand dollars, or imprisonment for a term not exceeding five years, or both.

No district board shall execute or deliver to any voter any paper in the nature of a transfer, purporting to authorize him to vote in any other election district unless he is actually registered as now provided by law.

Any officer or employee who shall willfully fail to perform or enforce any of the provisions of this title or who shall unlawfully or fraudulently remove any registration records, or who shall willfully destroy any record directed by this title to be kept, or any person who shall willfully or fraudulently register more than once, or register under any but his true name, or attempt to vote by impersonating another who is registered, or who willfully registers in any election district where he is not a resident at the time of registering, or who violates any of the provisions of this title, shall be guilty of a misdemeanor.

Historical and Statutory Notes

Source: L.1930, c. 187, §433, p. 877.

American Law Reports

Validity, construction, and application of 42 USCA sec. 1973i(c) making it federal offense with respect to federal elections to give false information in

registering or voting or to pay or accept payment for registering or voting, 23 ALR Fed 463.

Library References

Elections ⇨ 312, 323.

WESTLAW Topic No. 144.

C.J.S. Elections §§ 326, 355.

Texts and Treatises

26 Am Jur 2d, Elections § 376.

Notes of Decisions

Aiding and abetting 1
Name of registrant 3
Political contributions 4
Situs of offense 2

sylvania. State v. Stow, 83 N.J.L. 14, 84 A. 1063 (1912).

3. Name of registrant

A registration of voter solely under an assumed name, particularly one which gives no inkling as to previous birth name, would be violation of this section regardless of applicant's refusal to disclose prior birth name. In re Faith's Application, 22 N.J. Misc. 412, 39 A.2d 638 (1944).

4. Political contributions

Provision of this section prohibiting false registration of voters, and providing penalty for anyone "who violates any of the provisions of this title," was part of comprehensive statute enacted under general title of "An Act to Regulate Elections," and such general penalty provisions applied to violation of provision of § 19:34-45 providing that "No bank * * * shall pay or contribute money or thing of value in order to aid or promote the nomination or election of any person." State v. Bank of New Jersey, 139 N.J.Super. 593, 354 A.2d 693 (L.1976).

1. Aiding and abetting

The offense defined by L.1905, p. 224, § 2, repealed, making a person who shall willfully counsel, procure, or abet the registering of the name of any person on a registry list of an election district, knowing that such person is not entitled to vote therein, guilty of a misdemeanor, was not such an offense as was incapable of being committed by more than one person, but there could be a joint counselling, procuring, or abetting, for which more than one person may be convicted. State v. Nugent, 77 N.J.L. 80, 71 A. 484 (1908).

2. Situs of offense

An attempt to commit the crime of advising a voter to illegally register contrary to General Election Law 1905, L.1905, p. 224, § 2, repealed, was committed within the state of Pennsylvania by accused in New Jersey writing to a person in Penn-

19:34-1.1. Violations; penalties

a. Any person, other than an election official, who:

(1) knowingly and willfully intimidates, threatens or coerces, or attempts to intimidate, threaten or coerce, any person for registering

to vote, voting or attempting to register to vote or vote, urging or aiding any person to register to vote, to vote or to attempt to register or vote or exercising any right under the provisions of P.L.1994, c. 182 (C. 19:31-6.11); or

(2) knowingly and willfully deprives, defrauds or attempts to deprive or defraud the residents of this State of a fair and impartially conducted election by the procurement or submission of voter registration applications that are known by the person to be materially false, fictitious or fraudulent under the provisions of Title 19 of the Revised Statutes or the procurement, casting or tabulation of ballots that are known by the person to be materially false, fictitious or fraudulent under the provisions of Title 19 of the Revised Statutes, is guilty of a crime of the third degree.

b. Any election official who:

(1) knowingly and willfully intimidates, threatens or coerces, or attempts to intimidate, threaten or coerce, any person for registering to vote, voting or attempting to register to vote or vote, urging or aiding any person to register to vote, to vote or to attempt to register or vote, or exercising any right under the provisions of P.L.1994, c. 182 (C. 19:31-6.11); or

(2) knowingly and willfully deprives, defrauds or attempts to deprive or defraud the residents of this State of a fair and impartially conducted election by the procurement or submission of voter registration applications that are known by the election official to be materially false, fictitious or fraudulent under the provisions of Title 19 of the Revised Statutes or the procurement, casting or tabulation of ballots that are known by the election official to be materially false, fictitious or fraudulent under the provisions of Title 19 of the Revised Statutes, is guilty of a crime of the second degree.

c. As used in this section, "election official" shall include, but not be limited to, any superintendent or deputy superintendent of elections, commissioner of registration, member of a county board of elections, county clerk, municipal clerk, member of a district board of elections, member of a board of county canvassers and member of a board of State canvassers.

L.1994, c. 182, § 43.

Historical and Statutory Notes

L.1994, c. 182, § 46, approved Dec. 20, 1994, provides:

"This act shall take effect immediately [Dec. 20, 1994] but shall remain inoperative until January 1, 1995."

19:34-2. Offenses concerning nomination certificates or petitions

No person shall falsely make, falsely make oath to, or fraudulently deface or fraudulently destroy any certificate of nomination or peti-

tion, or any part thereof, or file, or receive for filing, any certificate of nomination or petition, knowing the same or any part thereof to be falsely made, or suppress any certificate of nomination or petition which has been duly filed, or any part thereof. A person violating any of the provisions of this section shall be guilty of a misdemeanor, and shall be punished by imprisonment for not more than five years.

Any person who, being a member of one political party, shall sign his name to any petition indorsing any person as a candidate for office of another political party, shall be guilty of a misdemeanor.

Historical and Statutory Notes

Source: L.1930, c. 187, §434, p. 878.

Notes of Decisions

Defacing petitions 1 Filing of false petitions 2 Oaths or affirmations 3

1. Defacing petitions

Act of candidate in striking 12 names from his direct nominating petition for office of state senator was not a demonstration of bad faith, where candidate's action in such regard stemmed from a desire to avoid political embarrassment to certain friends, and where signatures were stricken only after candidate discussed matter with a representative of secretary of state's office immediately prior to filing of petition. *In re Ross*, 116 N.J.Super. 178, 281 A.2d 393 (A.D.1971).

2. Filing of false petitions

Fact that certain persons, who signed direct nominating petition of candidate for office of state senator and who ostensibly pledged their support to such

candidate, voted for party candidates in primary election was not, without more, evidence of candidate's bad faith in filing nominating petition for general election with secretary of state. *In re Ross*, 116 N.J.Super. 178, 281 A.2d 393 (A.D. 1971).

3. Oaths or affirmations

This section providing that no person shall falsely make any certificate of nomination or petition, or any part thereof, applies not only to a candidate in the nominating petition or one directly involved in the filing procedure, but also applied to notary public who took oaths that individuals had signed before him as notary public knowing that none of the purported signatures was that of any of the individuals. *State v. Toland*, 123 N.J.Super. 286, 302 A.2d 543 (A.D.1973), appeal dismissed 94 S.Ct. 1964, 416 U.S. 953, 40 L.Ed.2d 303.

19:34-3. Ballots; offenses concerning printing, distribution, possession and forgery thereof

If any printer employed by any county or municipal clerk to print official ballots, or any person engaged in printing the same, shall appropriate to himself or give or deliver or knowingly permit to be taken any of such ballots by any other person than such county or municipal clerk or his duly authorized agent, or shall print or cause to be printed any official ballot in any other form than that prescribed by the county or municipal clerk, or with any other names thereon, or with the names spelled or the names or printing thereon arranged in any other way than that authorized and directed by this

title, the person so offending shall be guilty of a misdemeanor and shall be punished by a fine not exceeding one thousand dollars or imprisonment not exceeding five years.

If any person not authorized by the proper officers shall print or make any official or sample ballot provided for in this title, or on or prior to election day shall willfully have in his possession an official ballot without being authorized by this title to have charge or possession thereof, the person so offending shall be guilty of a misdemeanor.

If any person shall forge or falsely make any ballot or the official indorsement thereof, the person so offending shall be guilty of a misdemeanor and shall be punished by imprisonment for not more than five years.

Historical and Statutory Notes

Source: L.1930, c. 187, ¶435, p. 878.

Notes of Decisions

Printing of ballots 1

county clerk under L.1911, p. 276, repealed, constituted a crime. *State v. Voorhees*, 84 N.J.L. 584, 87 A. 118 (1913).

1. Printing of ballots

The printing of a number of sample ballots in excess of that authorized by the

19:34-4. Voting by person convicted of disfranchising crime

If a person convicted of a crime which disfranchises him shall vote at any election, unless he shall have been pardoned or restored by law to the right of suffrage, he shall be guilty of a misdemeanor, and shall be punished by a fine not exceeding two hundred dollars, or imprisonment at hard labor not exceeding two years, or both.

Historical and Statutory Notes

Source: L.1930, c. 187, ¶436, p. 879.

Library References

Texts and Treatises

26 Am Jur 2d, Elections § 375.

19:34-5. Interference with conduct of election

No person shall, during an election, with intent to hinder or delay same, or to hinder or delay any voter in the preparation of his ballot, remove or destroy any of the ballots or pencils placed in the booths

or compartments for the purpose of enabling the voter to prepare his ballot.

Any person willfully violating any of the provisions of this section shall be guilty of a misdemeanor and shall be punished by fine not exceeding five hundred dollars and imprisonment until such fine and the costs of the conviction are paid.

Historical and Statutory Notes

Source: L.1930, c. 187, §437, p. 879.

Library References

Elections ¶319.

WESTLAW Topic No. 144.

C.J.S. Elections § 330.

Forms

9 Am Jur Pl & Pr Forms, Rev, Elections, Forms 121, 122.

Texts and Treatises

26 Am Jur 2d, Elections § 385.

Notes of Decisions

Conspiracy 1

1. Conspiracy

Under Crimes Act, provision concerning conspiracy, § 2:119-1 et seq. (repealed; see, now, § 2C:5-2), and Act to Regulate Elections, L.1898, p. 326, § 202,

repealed, a conspiracy having for its object the payment of money to induce voters to vote at a general election, with intent to corruptly and unlawfully influence the result, was a conspiracy to pervert and obstruct the due administration of the election laws. *State v. McDevitt*, 84 N.J.L. 11, 87 A. 123 (1913), affirmed 85 N.J.L. 731, 90 A. 287.

19:34-6. Obstructing or interfering with polling place or voter

If a person shall on election day tamper, deface or interfere with any polling booth or obstruct the entrance to any polling place, or obstruct or interfere with any voter, or loiter, or do any electioneering within any polling place or within one hundred feet thereof, he shall be guilty of a misdemeanor and shall be punished by a fine not exceeding five hundred dollars (\$500.00) or by imprisonment not exceeding one year, or both.

Amended by L.1940, c. 199, p. 850, § 3; L.1948, c. 438, p. 1703, § 12.

Historical and Statutory Notes

Source: L.1930, c. 187, §438, p. 879.

Cross References

Electioneering within or about polling place, see § 19:34-15.

Library References

Elections ¶319.

WESTLAW Topic No. 144.

C.J.S. Elections § 330.

Texts and Treatises

26 Am Jur 2d, Elections § 385.

Notes of Decisions

Indictment or information 2
Validity 1

1. Validity

L.1940, c. 199, which amended this section relating to offenses against the election law by making such offenses mere cases of disorderly conduct punishable summarily without indictment or without jury trial was unconstitutional as to all except a few of the offenses specified, on ground that the offenses were offenses which under Const. 1844 Art. 1, pars. 7, 9 (see, now, Const. Art. 1, pars. 8, 9), were punishable only after indictment

and trial by jury, the statute was unconstitutional in toto, notwithstanding a few of the offenses specified could validly be placed within the domain of disorderly conduct. *Wilentz v. Galvin*, 125 N.J.L. 455, 15 A.2d 903 (1940).

2. Indictment or information

The offenses under this section are of offenses which were indictable at common law and which, under Const. 1844 Art. 1, pars. 7, 9 (see, now, Const. Art. 1, pars. 8, 9), were are punishable only upon indictment and trial by jury. *Wilentz v. Galvin*, 125 N.J.L. 455, 15 A.2d 903 (1940).

19:34-7. Violation of ballot regulations

No person shall within the polling room mark his ballot in a place other than in the polling booth or show his ballot, nor shall anyone request such person to show his ballot during the preparation thereof, nor shall any other person inspect such ballot during the preparation thereof or after it is prepared for voting in such a way as to reveal the contents, nor shall any person within the polling place or within a hundred feet thereof, loiter, electioneer, or solicit any voter.

No voter, at any election where official ballots are used, shall knowingly vote or offer to vote any ballot except an official ballot as by this Title required.

No person shall on any pretext carry any official ballot from the polling room on any election day except such persons as may by this Title be authorized to do so.

Any person violating any of the provisions of this section shall be guilty of a misdemeanor and shall be punished by a fine not exceeding five hundred dollars (\$500.00) or by imprisonment not exceeding one year, or both.

Amended by L.1940, c. 199, p. 851, § 4; L.1948; c. 438, p. 1703, § 13.

Historical and Statutory Notes

Source: L.1930, c. 187, ¶439, p. 880.

Library References

Elections ¶313.
WESTLAW Topic No. 144.
C.J.S. Elections § 325.

Texts and Treatises

26 Am Jur 2d, Elections § 375.

Notes of Decisions

Indictment or information 2 Validity 1

1. Validity

L.1940, c. 199, which amended this section, relating to offenses against the election law by making such offenses mere cases of disorderly conduct punishable summarily without indictment or without jury trial was unconstitutional as to all except a few of the offenses specified, on ground that the offenses were offenses which under Const. 1844 Art. 1, pars. 7, 9 (see, now, Const. Art. 1, pars. 8, 9), were punishable only after indictment

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19:34-8. Sample ballot not to be accepted

No election officer shall accept from any voter and deposit in the ballot box any sample primary ballot.

Historical and Statutory Notes

Source: L.1930, c. 187, ¶440, p. 880.

19:34-9. Prompting voter

Any person who shall prompt a voter in answering any questions provided by this title shall be guilty of a misdemeanor.

Historical and Statutory Notes

Source: L.1930, c. 187, ¶441, p. 880.

19:34-10. Identifying or distinguishing marks on ballots

If any person shall write, paste or otherwise place upon any official ballot any mark, sign or device of any kind as a distinguishing mark whereby to indicate to any member of any district board or other

person how any voter has voted at any election, or if any person shall induce or attempt to induce any voter to write, paste or otherwise place on his ballot any mark, sign or device of any kind, as a distinguishing mark by which to indicate to any member of any district board or other person how such voter has voted, or shall enter into or attempt to form any agreement or conspiracy with any other person to induce or attempt to induce voters or any voter to so place any distinguishing mark, sign or device on his ballot, whether or not such act be committed or attempted to be committed, such person so offending shall be guilty of a misdemeanor and shall be punished by a fine not exceeding five hundred dollars or imprisonment not exceeding one year, or both.

Historical and Statutory Notes

Source: L.1930, c. 187, ¶442, p. 880.

19:34-11. Fraudulent voting; interference with election or canvass; misdemeanor

Every person not entitled to vote who fraudulently votes, and every person who votes more than once at any one election; or knowingly hands in two or more ballots folded together; or changes any ballot after it has been deposited in the ballot box; or adds, or attempts to add, any ballot to those legally polled at any election, either by fraudulently introducing the same into the ballot box before or after the ballots therein have been counted; or adds to or mixes with, or attempts to add to or mix with, the ballots lawfully polled, other ballots while the same are being counted or canvassed, or at any other time, with intent to change the result of such election; or carries away or destroys, or attempts to carry away or destroy, any poll list, or ballots, or ballot box, for the purpose of breaking up or invalidating the election; or willfully detains, mutilates or destroys any election returns; or in any manner so interferes with the officers holding the election, or conducting the canvass, or with the voters lawfully exercising their rights of voting at the election, as to prevent the election or canvass from being fairly had and lawfully conducted, shall be guilty of a misdemeanor.

Amended by L.1940, c. 199, p. 852, § 5; L.1948, c. 438, p. 1704, § 14.

Historical and Statutory Notes

Source: L.1930, c. 187, ¶443, p. 881.

Library References

Elections ⇨313.

WESTLAW Topic No. 144.

C.J.S. Elections § 325.

Notes of Decisions

Burden of proof 5
Conspiracy 3
Indictment or information 4
Knowledge or intent 2
Presumptions and burden of proof 5
Validity 1

1. Validity

L.1940, c. 199, which amends this section by making offenses mere cases of "disorderly conduct" punishable summarily without indictment or without jury trial, is invalid on ground that the offenses are offenses which, under Const. 1844 Art. 1, pars. 7, 9 (see, now, Const. Art. 1, pars. 8, 9), were punishable only after indictment and trial by jury. *Wilentz v. Galvin*, 125 N.J.L. 455, 15 A.2d 903 (1940).

2. Knowledge or Intent

Knowledge of fact that voter was not entitled to vote as he did is a necessary element of offense of illegal voting, but such knowledge is not to be confused with the knowledge that all persons are presumed to have of the law, its existence and its effect, *ignorantia juris neminem excusat*, but that knowledge which is an element of the offense is the *mens rea*, or a guilty knowledge that the acts committed are wrong. *State v. Benny*, 20 N.J. 238, 119 A.2d 155 (1955).

3. Conspiracy

Where there is a design to procure a disqualified person to vote, followed by an overt act in pursuance of that design, the conspiracy is complete, though its purpose fail and the person does not actually vote. *State v. Nugent*, 77 N.J.L. 84, 71 A. 485 (1908).

4. Indictment or information

Indictments charging that defendants voted fraudulently at primary and general elections knowing or having reason to believe that they had not resided in State and county for requisite time, in contravention of Constitution and statutes, were sufficient to charge offenses under statute proscribing fraudulent voting at any election. *State v. Smith*, 22 N.J. 59, 123 A.2d 369 (1956).

The offenses under this section are offenses which were indictable at common law and which, under N.J.S.A.Const. Art. 1, pars. 7, 9 (see, now, Const. Art. 1, pars. 7, 9), were punishable only upon indictment and trial by jury. *Wilentz v. Galvin*, 125 N.J.L. 455, 15 A.2d 903 (1940).

Indictment for illegally voting, in exact words of statute, was sufficient, since an indictment for a statutory crime is sufficient, if offense is charged in words or language of statute. *State v. Nixon*, 86 N.J.L. 371, 90 A. 1102 (1914).

Under L.1898, p. 801, § 26, concerning penalty for fraudulent voting, the indictment must state the particular disability which disfranchises the voter. *State v. Tweed*, 27 N.J.L. 111 (1858).

An indictment for illegal voting need not charge that the defendant fraudulently voted. But if the indictment is for illegally offering his vote, it must charge that the vote was fraudulently offered. *State v. Moore*, 27 N.J.L. 105 (1858).

5. Presumptions and burden of proof

In prosecution for illegal voting, State has burden of proving, beyond reasonable doubt and by either direct evidence or facts from which it could reasonably be inferred, that voter had knowledge, *mens rea*, that he was not entitled to vote. *State v. Benny*, 20 N.J. 238, 119 A.2d 155 (1955).

19:34-12. Attempt to cast illegal vote; misdemeanor

Every person not entitled to vote who fraudulently attempts to vote, or who being entitled to vote attempts to vote more than once at any election, or who personates or attempts to personate a person legally entitled to vote, shall be guilty of a misdemeanor.

Amended by L.1940, c. 199, p. 852, § 6; L.1948, c. 438, p. 1704, § 15.

Historical and Statutory Notes

Source: L.1930, c. 187, ¶444, p. 882.

Library References

Elections ⇨313.

WESTLAW Topic No. 144.

C.J.S. Elections § 325.

Notes of Decisions

Indictment or information 2
Validity 1

Art. 1, pars. 8, 9), were punishable only after indictment and trial by jury. *Wilentz v. Galvin*, 125 N.J.L. 455, 15 A.2d 903 (1940).

1. Validity

L.1940, c. 199, which amended this section by making offenses mere cases of "disorderly conduct" punishable summarily without indictment or without jury trial, was invalid on ground that the offenses were offenses which, under Const. 1844 Art. 1, pars. 7, 9 (see, now, Const.

2. Indictment or Information

The offenses under this section are of offenses which were indictable at common law and which, under Const. 1844 Art. 1, pars. 7, 9 (see, now, Const. Art. 1, pars. 8, 9), were punishable only upon indictment and trial by jury. *Wilentz v. Galvin*, 125 N.J.L. 455, 15 A.2d 903 (1940).

19:34-13. Attempts by election officers to discover how voter voted; misdemeanor

Every inspector, judge or clerk of an election, who, previous to putting the ballot of an elector in the ballot box, attempts to find out any name on such ballot, or who opens or suffers the folded ballot of any elector which has been handed in to be opened or examined previous to putting the same in the ballot box, or who makes or places any mark or device on any folded ballot with the view to ascertain the name of any person for whom the elector has voted, shall be guilty of a misdemeanor.

Amended by L.1940, c. 199, p. 853, § 7; L.1948, c. 438, p. 1704, § 16.

Historical and Statutory Notes

Source: L.1930, c. 187, ¶445, p. 882.

Library References

Elections ⇨314.

WESTLAW Topic No. 144.

C.J.S. Elections § 327.

Texts and Treatises

26 Am Jur 2d, Elections § 376.

Notes of Decisions

Indictment or Information 2
Validity 1

after indictment and trial by jury. Wilentz v. Galvin, 125 N.J.L. 455, 15 A.2d 903 (1940).

1. Validity

L.1940, c. 199, which amended this section by making offenses mere cases of "disorderly conduct" punishable summarily without indictment or without jury trial, was invalid on ground that the offenses were offenses which, under Const. 1844 Art. 1, pars. 7, 9 (see, now, Const. Art. 1, pars. 7, 9), were punishable only

2. Indictment or information

The offenses under this section were offenses which were indictable at common law and which, under Const. 1844 Art. 1, pars. 7, 9 (see, now, Const. Art. 1, pars. 8, 9), were punishable only upon indictment and trial by jury. Wilentz v. Galvin, 125 N.J.L. 455, 15 A.2d 903 (1940).

19:34-14. Member of district board revealing knowledge of how voter voted

If a member of any district board has knowledge how any person has voted and shall reveal such knowledge to any other person, or shall fraudulently or corruptly disclose what other candidates were voted for on any ballot bearing a name not printed thereon, or fraudulently or corruptly gives any information concerning the appearance of any ballot voted, he shall be guilty of a misdemeanor and shall be punished by a fine not exceeding two thousand dollars or imprisonment not exceeding five years.

Historical and Statutory Notes

Source: L.1930, c. 187, ¶446, p. 882.

19:34-15. Electioneering within or about polling place; misdemeanor

If a person shall distribute or display any circular or printed matter or offer any suggestion or solicit any support for any candidate, party or public question within the polling place or room or within a distance of one hundred feet of the outside entrance to such polling place or room, he shall be guilty of a misdemeanor.

Amended by L.1940, c. 199, p. 853, § 8; L.1948, c. 438, p. 1705, § 17.

Historical and Statutory Notes

Source: L.1930, c. 187, ¶447, p. 882.

Cross References

Obstructing or interfering with polling place or voter, see § 19:34-6.

Library References

Elections § 317.

WESTLAW Topic No. 144.

C.J.S. Elections § 329.

Texts and Treatises

26 Am Jur 2d, Elections § 374.

Notes of Decisions

Indictment or Information 2 Validity 1

1. Validity

L.1940, c. 199, which amended this section relating to offenses against the election law by making such offenses mere cases of disorderly conduct punishable summarily without indictment or without jury trial was unconstitutional as to all except a few of the offenses specified, on ground that the offenses were offenses which under Const. 1844 Art. 1, pars. 7, 9 (see, now, Const. Art. 1, pars. 8, 9), were punishable only after indictment and trial by jury, the statute was unconstitutional in toto, notwithstanding a few of the offenses specified could validly be placed within the domain of disorderly conduct. *Wilentz v. Galvin*, 125 N.J.L. 455, 15 A.2d 903 (1940).

The clause in § 63 of the election act of 1890, L.1890, p. 397, repealed, prohibiting any electioneering on an election day within 100 feet of any polling place, was a reasonable police regulation to secure good order about the polls, and did not infringe the constitutional right of every citizen to express his sentiments upon public men and measures, and to persuade his fellow citizens to vote for the advancement of his opinion. *State v. Black*, 54 N.J.L. 446, 24 A. 489 (1892), affirmed 65 N.J.L. 688, 51 A. 1109.

2. Indictment or information

The offenses under this section are offenses which were indictable at common law and which, under Const. 1844 Art. 1, pars. 7, 9 (see, now, Const. Art. 1, pars. 8, 9), were punishable only upon indictment and trial by jury. *Wilentz v. Galvin*, 125 N.J.L. 455, 15 A.2d 903 (1940).

19:34-16. Removal, destruction or mutilation of registry lists or voters' lists

A person who shall remove, destroy or mutilate any registry list or copy thereof, or who before an election closes shall remove, destroy or mutilate any list of voters posted in accordance with this title, shall be guilty of a misdemeanor, and shall be punished by a fine of not more than one thousand dollars or imprisonment for not more than two years.

Historical and Statutory Notes

Source: L.1930, c. 187, § 448, p. 883.

Library References

Forms

9 Am Jur Pl & Pr Forms, Rev, Elections, Form 122.

19:34-17. Unlawfully taking ballot box or removing contents; destroying ballots; willfully suppressing records

If a person shall rob or plunder any ballot box, or unlawfully and by stealth or violence take the same or remove therefrom any ballot or other paper, or exchange, alter or destroy any ballot or other paper contained therein, or if any person shall willfully and corruptly suppress, withhold, mutilate, destroy, alter or change any return, statement or certificate or any copy thereof, which shall have been made in pursuance of this title, and delivered to him to be filed, or which shall have been intrusted or delivered to him to be delivered or transmitted to any other person in pursuance of this title, every such person, his aiders, procurers and abettors, shall be guilty of a misdemeanor and shall be punished by a fine not exceeding five hundred dollars, or by imprisonment at hard labor for a term not exceeding two years, or both.

This section shall not apply to the destruction of ballots or the performance of other acts by officials when such acts are performed as prescribed in this title.

Historical and Statutory Notes

Source: L.1930, c. 187, §449, p. 883.

Library References

Forms

9 Am Jur Pl & Pr Forms, Rev, Elections, Form 124.

Texts and Treatises

26 Am Jur 2d, Elections § 386.

Notes of Decisions

Primary elections 1

1. Primary elections

Section 190 of the act to regulate elections, L.1898, p. 322, repealed, making it

a crime for any person to alter or destroy and ballot contained in the ballot box, did not apply to party primaries. State v. Lamb, 81 N.J.L. 234, 80 A. 111 (1911).

19:34-18. Interfering with return of ballot boxes

A person who shall willfully obstruct or interfere with the clerk or clerks on the way from the polls to the office of the city clerk shall be guilty of a misdemeanor and shall be punished by a fine not exceeding five hundred dollars, or by imprisonment at hard labor for a term not exceeding two years, or both.

Historical and Statutory Notes

Source: L.1930, c. 187, §450, p. 883.

Library References**Texts and Treatises**

26 Am Jur 2d, Elections § 385.

19:34-19. Insignia at polls

No person shall display, sell, give or provide any political badge, button or other insignia to be worn at or within one hundred feet of the polls or within the polling place or room, on any primary, general or special election day or on any commission government election day, except the badge furnished by the county board as herein provided.

A person violating any of the provisions of this section shall be guilty of a misdemeanor and shall be punished by a fine not exceeding five hundred dollars or by imprisonment not exceeding one year, or both.

Historical and Statutory Notes

Source: L.1930, c. 187, §451, p. 884.

19:34-20. Soliciting or procuring or assisting unlawful registration and other violations of election law

Whoever shall solicit the registering of his name on the registry list of any election district or precinct, knowing that he is not a legal voter in such district or precinct; or shall willfully counsel, procure, aid, advise, assist or abet in the registering of the name of any other person on the registry list of any election district or precinct, knowing such other person is not entitled to vote therein; or at any election, knowing that he is not a qualified voter, votes thereat; or at any election votes or attempts to vote more than once on his own name; or at any election votes or attempts to vote in more than one election district or precinct; or at any election votes or attempts to vote upon any other name than his own; or knowingly casts or attempts to cast more than one ballot at one time by balloting; or at any election counsels, procures, aids, advises, assists or abets any person, knowing that he is not a qualified voter, to vote thereat; or at any election counsels, procures, aids, advises, assists or abets any person in voting in more than one election district or precinct; or at any election counsels, procures, aids, advises, assists or abets any person to vote or to attempt to vote upon any name other than his own, or knowingly cast or attempt to cast more than one ballot at

one time of voting; or at any election shall in any way willfully mark or deface his ballot, or shall willfully counsel, procure, aid, advise, assist or abet any person in the marking or defacing of a ballot; or at any election shall in any way counsel, procure, aid, advise, assist or abet any official or person in any act which is contrary to the provisions of this title; or at any election shall in any way willfully hinder or prevent a voter from casting his legal vote, knowing such person to have a right to vote; or shall willfully tamper with, injure, mutilate, destroy or render unfit for use, any ballot box; shall be guilty of a misdemeanor and punishable by a fine of five hundred dollars, or imprisonment in state prison for the term of three years, or both.

Historical and Statutory Notes

Source: L.1930, c. 187, §452, p. 884.

Library References

Elections Ⓒ312.

WESTLAW Topic No. 144.

C.J.S. Elections § 326.

United States Code Annotated

Civil rights, elective franchise, see 42 USCA § 1971 et seq.

Notes of Decisions

Aiding and abetting 4
 Burden of proof 5
 Conspiracy 3
 Intent 2
 Presumptions and burden of proof 5
 Procuring illegal registration 1
 Sufficiency of evidence 6

1. Procuring illegal registration

That a candidate for public office in his quest of favorable votes procures the registration of an unqualified voter is not an offense, unless it also appears that candidate knew when he caused such registration to be made that the person was not entitled to vote at ensuing election, and proof of such knowledge must be clear, consisting of more than a mere inference that he could have ascertained the truth by further inquiry. *State v. Bartell*, 15 N.J.Super. 450, 83 A.2d 628 (A.D.1951), certification granted 8 N.J. 431, 86 A.2d 145, affirmed 10 N.J. 9, 89 A.2d 394.

Accused, in the city of Camden, N.J., wrote a letter relating to registering as a voter, addressed in its body to C., which was mailed in Camden, inclosed in an envelope addressed to "C., Bridesburg, Pa.," and was delivered at Bridesburg to another who turned it over to others who finally forwarded it to the prosecutor, but it was never seen or received by C. for whom it was intended. Any attempt to commit the crime of advising C. to illegally register as a voter in New Jersey, contrary to General Election Law, L.1905, p. 224, § 2, repealed, was committed within the state of Pennsylvania, and hence there could be no conviction therefor in New Jersey. *State v. Stow*, 83 N.J.L. 14, 84 A. 1063 (1912).

L.1905, p. 224, § 2, repealed, making a person who shall willfully counsel, procure, or abet the registering of the name of any person on a registry list of an election district, knowing that such person is not entitled to vote therein, guilty of a misdemeanor, does not extend merely to influence exercised directly upon the

board of registry, as by presenting to the board an affidavit of persons who have not been registered as persons who are entitled to be, but includes the persuading of a voter to personate another voter, or to do any act which may result in the registration of a name of a person not entitled to vote. *State v. Nugent*, 77 N.J.L. 80, 71 A. 484 (1908).

2. Intent

To establish offense of procuring illegal registration of voters, culpable intent must be shown and not mere ignorance of the person's qualifications. *State v. Bartell*, 15 N.J.Super. 450, 83 A.2d 628 (A.D.1951), certification granted 8 N.J. 431, 86 A.2d 145, affirmed 10 N.J. 9, 89 A.2d 394.

Ignorance of Const. 1844 Art. 2, § 1 (now, Const. Art. 2, par. 3), was not a defense to prosecution of accused for having registered as a voter knowing that she was not a legal voter and had not resided in the state for a year and in the county in which she registered five months before the general election and for having voted in the general election knowing that she was not a qualified voter. *State v. Pruser*, 127 N.J.L. 97, 21 A.2d 641 (1941).

In prosecution for procuring, advising or assisting unlawful registration, and unlawful voting, where defendant requested charge that for jury to find verdict of guilty proof of defendant's knowledge of illegality of vote must be clear, "not a mere inference that he could have found out by further inquiry", omission of quoted phrase was not error. *State v. Fay*, 127 N.J.L. 77, 21 A.2d 607 (1941).

A voter was chargeable with knowledge of requirement of Const. 1844 Art. 2, par. 1 (now Const. Art. 2, par. 3), that he must be domiciled in the county in which he registered and voted for at least 5 months in determining whether such voter was guilty of knowingly voting and registering illegally. *State v. Atti*, 127 N.J.L. 39, 21 A.2d 603 (1941), affirmed 128 N.J.L. 318, 25 A.2d 634.

An indictment for a violation of L.1905, p. 224, § 2, repealed, making a person who shall willfully counsel, procure, or abet the registering of the name of any person on a registry list of an election district, knowing that such person was not entitled to vote therein, guilty of a misdemeanor, was not required to allege

that the false registration was made with intent to vote at a general election, as such intention was not a part of the defined statutory offense. *State v. Nugent*, 77 N.J.L. 80, 71 A. 484 (1908).

The word "knowing," in a criminal statute, L.1890, p. 369, § 15, repealed, providing penalty for procuring false registration of a voter, meant mental assurance, knowledge, or scienter; and such knowledge had to be clearly proved, or shown by circumstances which left no reasonable doubt on a fair and considerate mind. *State v. McBarron*, 66 N.J.L. 680, 51 A. 146 (1902).

3. Conspiracy

Fraudulent voting at an election, whether consisting of voting disqualified persons, repeating, or voting under the names of other voters, was a "perversion or obstruction of the due administration of law," which by former law made the subject of a criminal conspiracy. *State v. Nugent*, 77 N.J.L. 84, 71 A. 485 (1908).

4. Aiding and abetting

The offense defined by L.1905, p. 224, § 2, repealed, making a person who shall willfully counsel, procure, or abet the registering of the name of any person on a registry list of an election district, knowing that such person was not entitled to vote therein, guilty of a misdemeanor, was not such an offense as was incapable of being committed by more than one person, but there could be a joint counseling, procuring, or abetting, for which more than one person could be convicted. *State v. Nugent*, 77 N.J.L. 80, 71 A. 484 (1908).

5. Presumptions and burden of proof

Where accused was charged with having registered as a voter knowing that she was not a legal voter and with having voted at general election knowing that she was not a qualified voter and that she had not resided in New Jersey for a year nor in the county five months next before the general election, state was not obliged to prove that the accused had knowledge of legal effect of her having registered from her self-acknowledged residence in New York for the election there to be held a little more than three weeks before registering and voting in New Jersey, since accused was legally charged with such knowledge under the doctrine "ignorantia juris neminem excusat". *State v.*

Note 5

Pruser, 127 N.J.L. 97, 21 A.2d 641 (1941).

Where accused was charged with registering her name on the registry list then and there knowing that she was not a legal voter and with having voted at general election knowing that she was not a qualified voter, burden was on the state to prove the knowledge charged. *State v. Pruser*, 127 N.J.L. 97, 21 A.2d 641 (1941).

The state's obligation to prove beyond a reasonable doubt charge of violating election laws relating to procuring, advising or assisting unlawful registration, and unlawful voting, made it necessary for state to prove culpable intent, and not mere ignorance on part of defendant. *State v. Fay*, 127 N.J.L. 77, 21 A.2d 607 (1941).

In prosecution for illegally registering and voting, state has burden of proving facts warranting inference that defendant had knowledge of illegality of his conduct. *State v. Atti*, 127 N.J.L. 39, 21 A.2d 603 (1941), affirmed 128 N.J.L. 318, 25 A.2d 634.

To sustain a conviction under L.1890, p. 369, § 15, repealed, providing penalty for procuring false registration of a voter, it must be clearly shown that the person indicted not only procured the name of an unqualified voter to be registered, but also that he knew at the time of such registration that such person was not entitled to vote at the next election. *State v. McBarron*, 66 N.J.L. 680, 51 A. 146 (1902).

6. Sufficiency of evidence

Where accused was charged with registering as a voter knowing that she was not a legal voter and with having voted at general election knowing that she was not a qualified voter and that she had not resided in New Jersey for a year nor in the county five months next before the general election and the state's evidence disclosed that three weeks before accused registered and voted in New Jersey she registered from her self-acknowledged residence in New York for election there to be held, evidence of knowledge charged was sufficient for the jury. *State v. Pruser*, 127 N.J.L. 97, 21 A.2d 641 (1941).

19:34-21. Voting in wrong party ballot box

A person who being a member of one political party shall vote in the ballot box used for the primary election of another political party shall in each case be guilty of a misdemeanor, and shall be punished by a fine not exceeding five hundred dollars or be imprisoned not exceeding two years, or both.

Historical and Statutory Notes

Source: L.1930, c. 187, §453, p. 885.

American Law Reports

Solicitation or receipt of funds by public officer or employee for political

campaign expenses or similar purposes as bribery, 5 ALR2d 1137.

Library References

Texts and Treatises

26 Am Jur 2d, Elections §§375 to 378.

19:34-22. False voting at primary

If a person not entitled to vote at any primary election as herein provided shall vote or offer to vote at such primary meeting or caucus knowing or having reason to believe himself not entitled to so

vote, or if any person shall counsel or procure anyone to so vote, knowing or having reason to believe such voter not entitled to do so, or if any person having voted at any primary meeting held by any political party or organization to nominate candidates or to elect delegates to nominate candidates, to be voted for at any election, shall vote or offer to vote at the primary meeting held by any other political party or organization held to nominate candidates or to elect delegates to nominate candidates, to be voted for at the same election, such person shall be guilty of a misdemeanor and shall for each offense be imprisoned at hard labor for a term not exceeding three months or by a fine not exceeding one hundred dollars, or both.

Historical and Statutory Notes

Source: L.1930, c. 187, §454, p. 885.

Notes of Decisions

Burden of proof 2
Knowledge 1

a guilty knowledge that the acts committed are wrong. *State v. Benny*, 20 N.J. 238, 119 A.2d 155 (1955).

1. Knowledge

Knowledge of fact that voter was not entitled to vote as he did is a necessary element of offense of illegal voting, but such knowledge is not to be confused with the knowledge that all persons are presumed to have of the law, its existence and its effect, *ignorantia juris neminem excusat*, but that knowledge which is an element of the offense is the *mens rea*, or

2. Burden of proof

In prosecution for illegal voting, State has burden of proving, beyond reasonable doubt and by either direct evidence or facts from which it could reasonably be inferred, that voter had knowledge, *mens rea*, that he was not entitled to vote. *State v. Benny*, 20 N.J. 238, 119 A.2d 155 (1955).

19:34-23. Primary election officials acting before taking oath; willfully disregarding or violating rules

If any judge, inspector, clerk or other officer of a primary election shall act in such capacity before taking and subscribing to the oath or affirmation required by this title, or shall willfully disregard or violate the provisions of any rule duly made by the party of which he is a member and for whom he is acting for the government of the primary elections of the party, or if any judge or inspector of any primary election shall knowingly reject the vote of any person entitled to vote under the rules of such party or shall knowingly receive the vote of any person not qualified, or if any judge, inspector, clerk or any other officer of a primary election shall commit any willful fraud in the discharge of his duties by destroying or marking any ballot in any way before such ballot is delivered to the voter or by defacing ballots, adding marks to the poll by false counting, making false returns or by any act or thing whatsoever, he shall be guilty of a

misdeemeanor and shall be punished by a fine not exceeding five hundred dollars or by imprisonment not exceeding one year, or both.

Historical and Statutory Notes

Source: L.1930, c. 187, ¶455, p. 886.

Library References

Elections ⇨314.

WESTLAW Topic No. 144.

C.J.S. Elections § 327.

Notes of Decisions

Affidavits 1

1. Affidavits

The failure of election district boards to require affidavits of voters needing assis-

tance in marking their ballots does not invalidate their ballots and is not a cause for contest, but is a procedural neglect punishable by removal, fine, or imprisonment, according to the circumstances. *Petition of Clee*, 119 N.J.L. 310, 196 A. 476 (1938).

19:34-24. Betting on election

No person shall make, lay or deposit any bet, wager or stake, to be decided by the result of any election, by the election or defeat of one or more persons at any election, or by any contingency connected with or growing out of any election. All contracts for or on account of any money, property or thing in action so bet, wagered or staked shall be void. Any person who shall pay, deliver or deposit any money, property or thing in action upon the event of any bet, wager or stake prohibited by this section, may sue for and recover the same from the winner or person to whom the same, or any part thereof, shall have been paid or delivered, or with whom the same, or any part thereof, shall have been deposited, whether he shall have been a stakeholder, or other person, whether or not the same shall have been paid over by such stakeholder, or whether or not such bet, wager or stake shall have been lost.

No candidate for public office, before or during an election, shall make any bet or wager with a voter, or take a share or interest in, or in any manner become a party to such bet or wager, or provide or agree to provide any money to be used by another in making such bet or wager, upon any event or contingency whatever. No person, directly or indirectly, shall make a bet or wager with a voter, depending upon the result of any election, with the intent thereby to procure the challenge of such voter, or to prevent him from voting at the election.

Historical and Statutory Notes

Source: L.1930, c. 187, §456, p. 886.

Cross References

Gambling, generally, see §§ 2A:40-1 et seq., 2C:37-1 et seq.

Library References

Elections ⇨315.

WESTLAW Topic No. 144.

C.J.S. Elections § 328.

19:34-25. Bribery

Bribery of voter. a. If a person shall, directly or indirectly, by himself or by any other person in his behalf, give, lend or agree to give or lend, or shall offer, promise or promise to procure, or endeavor to procure, any money or other valuable consideration or thing to or for any voter, or to or for any person, in order to induce any voter to vote or refrain from registering for any election, or shall corruptly do or commit any of the acts in this section mentioned because of any such voter having voted or refrained from voting at an election, or registered or refrained from registering at an election, he shall be guilty of a misdemeanor and shall be punished by a fine not to exceed two thousand dollars or imprisonment not to exceed five years, or both.

Bribery of member of election board; acceptance. b. Whosoever shall, directly or indirectly, make or give any money or other thing of value to any member of the district board because of his membership on such board, or when it shall appear that such money or other thing of value is made or given to such member because of his membership on the board, except as hereinbefore provided as his legal compensation for service on the board, shall be guilty of a misdemeanor and shall be punished by a fine not exceeding one thousand dollars or imprisonment not exceeding two years, or both.

Any member of a district board who shall, by himself, or by any other person in his behalf, receive any money or other thing of value because of his membership on such board, or when it shall appear that such money or other thing of value is accepted or received by such member because of his membership on the board, except as hereinbefore provided as his legal compensation for service on the board, shall be guilty of a misdemeanor and shall be punished by a fine not exceeding one thousand dollars or imprisonment not exceeding two years, or both.

Promising office or employment. c. A person who shall directly or indirectly, by himself or by any other person in his behalf, give or procure, or agree to give or procure or offer or promise to procure, or endeavor to procure any office, place or employment to or for any voter, or to or for any person on behalf of such voter, or to or for any other person, in order to induce such voter to vote or refrain from voting, or to register or refrain from registering, or shall corruptly do any act as above because of any voter having voted or refrained from voting, or having registered or refrained from registering for any election, shall be guilty of a misdemeanor and shall be punished by a fine not exceeding two thousand dollars, or imprisonment not exceeding five years.

Acceptance of bribe by voter. d. Any voter who shall directly or indirectly, by himself or by any other person on his behalf, receive, agree or contract for any money, gift, loan or valuable consideration, office, place or employment for himself or for any other person for voting or agreeing to vote, or for refraining or agreeing to refrain from voting at any election, or for registering or agreeing to register, or for refraining or for agreeing to refrain from registering for any election, shall be guilty of a misdemeanor, and shall be punished by a fine not exceeding one thousand dollars, or imprisonment not exceeding one year.

Bribery of delegates. e. If a person shall, directly or indirectly, give, offer or promise to give any sum or sums of money or any valuable thing in action, victuals, drink or preferment or other considerations, by way of fee, reward, gift or gratuity, or other valuable present or reward to obtain, procure or influence the opinion, behavior, vote or abstaining from voting for the election of any delegate to any convention of any political party, to nominate any candidate for member of the legislature, for member of congress, for electors for president and vice president of the United States, for governor, or for any candidate for any office in any county or municipality; or if any person being a delegate to any political convention to nominate candidates for any of the offices named in this title shall directly or indirectly, ask for, accept, receive or take any sum or sums of money, or other valuable consideration by way of fee, reward, gift or gratuity, or other valuable consideration for the giving or refusing to give his vote at any such convention, the person so offering, asking, or receiving shall be guilty of a misdemeanor, and shall be punished by a fine not exceeding five hundred dollars or imprisonment not exceeding six months, or both.

Bribery at election. f. Whoever shall, directly or indirectly, give, furnish, supply or promise, or cause to be given, furnished, supplied, offered or promised, to any person or persons, any money, service,

preferment or valuable thing with the intent that such money or valuable thing or any other money, service, preferment or valuable thing shall be given, offered, promised or used, by any person or persons, by way of fee, reward, gift or gratuity, for giving or refusing to give any vote of any citizen, at any election of any public officer, state, county or municipal, to be held therein, or of any member of congress, of electors for president and vice president of the United States, or at any election of any delegate or delegates to any political convention to be held for the nomination of any of the officers above, or by way of gift, gratuity or reward, for giving or withholding the vote of any delegate at any such convention, shall be guilty of a misdemeanor, and shall be punished by a fine not exceeding ten thousand dollars, or imprisonment not exceeding one year, or both.

Inducing voters. g. A person who shall, directly or indirectly, by himself or by any other person in his behalf, give, lend, or agree to give or lend, or procure, or agree to procure or offer or promise to procure, or endeavor to procure, any money or other valuable consideration or thing, or any office, place or employment to or for any voter, or to or for any person, in order to induce such voter to vote or refrain from registering or voting at any election, or shall corruptly do or commit any of the acts in this section mentioned, because of any voter having voted or refrained from voting or having registered or refrained from registering for any election, shall be guilty of a misdemeanor, and shall be sentenced to disfranchisement for a period of five years, from the date of conviction.

Contributions for use in bribing. h. A person who shall give, advance or pay, or cause to be given, advanced or paid, any money or other valuable thing to any person, or to the use of any person, with the intent that such money or other valuable thing, or any part thereof, shall be expended, or used for bribery of voters, or for any other unlawful purpose at any election, or who shall knowingly pay, or cause to be paid money to any person wholly or in part expended in bribery of a voter at any election, shall be guilty of a misdemeanor, and shall be sentenced to disfranchisement for five years from the date of conviction.

Receiving rewards. i. A person who shall, directly or indirectly, by himself, or by any other person on his behalf, receive, agree or contract for any money, gift, loan or valuable consideration, office, place or employment for himself or for any other person for voting or agreeing to vote, or for refraining or agreeing to refrain from voting at any election, or for registering or agreeing to register, or for refraining or for agreeing to refrain from registering for any election, shall be guilty of a misdemeanor, and shall be sentenced to disfranchisement for a period of five years from the date of conviction.

Gift, or promise of, for certain purposes. j. No person shall give or agree to give for the purpose of promoting or procuring or for the purpose of opposing or preventing the election of a candidate for public office, or for the purpose of promoting or procuring or for the purpose of opposing or preventing the nomination of any person as a candidate for public office, any money or any valuable thing to be used for any of the following purposes:

1. To provide or give or to pay, wholly or in part, the expense of giving or providing any meat, drink, entertainment or provision to or for any person for the purpose of influencing that person or any other person to give or refrain from giving his vote at any election, or because of any such person or any other person having voted or refrained from voting.

2. To provide for the payment of rent for or for the purpose of providing and fitting up any clubroom for social or recreative purposes, or providing for uniforms for any organized club.

3. To provide for the payment for the insertion in any newspaper or magazine of any article tending to influence any person to give or refrain from giving his vote to any candidate or candidates at any election; or to provide for payment for the distribution of any newspaper or magazine wherein any such article is printed; or to provide for payment of the printing or of the distribution of any circular, handbill, card, pamphlet or statement tending to influence any person to give or refrain from giving his vote to any candidate at any election; but this prohibition shall not be construed to prohibit the printing and distribution of paid advertisements, which advertisements shall be indicated by the words "This advertisement has been paid for by " (inserting the true name and address of the person or persons paying for the same); nor shall it be construed to prohibit the printing and distribution of circulars, handbills, cards, pamphlets or statements which shall have printed on the face thereof the true name and address of the person or persons paying for the printing and distribution thereof, which fact shall be indicated by the words "The cost of the printing and distribution of this circular (or as the case may be) has been paid by " (inserting the true name and address of the person or persons paying for the same).

Accepting gifts. k. No person shall accept any money or other valuable thing, the payment of which is prohibited by paragraph "j" of this section.

Penalty. l. Any person who shall violate any of the provisions of paragraphs "j" and "k" of this section shall be guilty of a misdemeanor, and shall for the first offense be disfranchised for a period of two years from the date of conviction, and for any subsequent offense shall be perpetually disfranchised, and in addition thereto the court

in which such conviction is obtained, may in case of a subsequent conviction, impose upon the person so convicted the punishment now prescribed by law for a misdemeanor.

Historical and Statutory Notes

Source: L.1930, c. 187, §457, p. 887.

Cross References

Bribery and corrupt influence, generally, see § 2C:27-1 et seq.

Library References

Elections ⇨316.

WESTLAW Topic No. 144.

C.J.S. Elections § 332.

19:34-26. Perjury; subornation of perjury

Superceded by N.J.R.E. 601, effective July 1, 1993.

If a person shall be guilty of willful and corrupt false swearing or affirming, or by any means shall willfully and corruptly suborn or procure a person to swear or affirm falsely, in taking any oath, affirmation or deposition prescribed or authorized by this title, he shall be deemed guilty of a high misdemeanor, and shall be punished by a fine not exceeding eight hundred dollars or imprisonment at hard labor not exceeding seven years, or both, and be deemed to be an incompetent witness thereafter for any purpose within this state, until such time as he shall have been pardoned.

Historical and Statutory Notes

Source: L.1930, c. 187, §458, p. 892.

Cross References

Perjury, generally, see §§ 2C:28-1 et seq., 41:3-1, 41:3-2.

Library References

Texts and Treatises

81 Am Jur 2d, Witnesses §§45, 46.

19:34-27. Improperly influencing or intimidating employees

An employer of any workman, or any agent, superintendent or overseer of any company or corporation employing workmen, or any person who shall directly or indirectly, by himself or by any other person in his behalf or by his direction, make use of or threaten to make use of any force, violence or restraint, or inflict or threaten to

inflict by himself or by any other person any injury, damage, harm or loss against any person in his employ, in order to induce or compel such employee to vote or refrain from voting for any particular candidate at any election, or because of such employee having voted or refrained from voting for any particular candidate at any election, or who shall, by any duress, constraint or improper influence or by any fraudulent or improper device, contrivance or scheme, impede, hinder or prevent the free exercise of the franchise of any voter at any election, or shall thereby compel, induce or prevail upon any voter to vote for or against any particular candidate at any election, shall be guilty of a misdemeanor, and shall be punished by a fine not exceeding two thousand dollars, or imprisonment not exceeding five years, or both.

Historical and Statutory Notes

Source: L.1930, c. 187, §1459, p. 893.

Library References

Elections §320.

WESTLAW Topic No. 144.

C.J.S. Elections § 333.

Texts and Treatises

29 Am Jur 2d, Elections §§382 to 385.

United States Code Annotated

Civil rights, intimidation of voters, see 42 USCA §§ 1971 and 1973i.

Deprivation of employment or other benefit for political contributions, see 18 USCA § 601.

Promise of employment or other benefit for political activity, offense, see 18 USCA § 600.

19:34-28. Threatening or intimidating voters

No person shall, directly or indirectly, by himself or by any other person in his behalf, make use of, or threaten to make use of, any force, violence or restraint, or inflict or threaten the infliction, by himself or through any other person, of any injury, damage, harm or loss, or in any manner to practice intimidation upon or against any person, in order to induce or compel such person to vote or refrain from voting at any election, or to vote or refrain from voting for any particular person or persons at any election, or on account of such person having voted or refrained from voting at any election.

Amended by L.1940, c. 199, p. 854, § 9; L.1948, c. 438, p. 1705, § 18.

Historical and Statutory Notes

Source: L.1930, c. 187, §460, p. 893.

Cross References

Kidnapping, generally, see § 2C:13-1 et seq.

Library References

Elections ⇨320.

WESTLAW Topic No. 144.

C.J.S. Elections § 333.

United States Code Annotated

Civil rights, intimidation of voters, see 42 USCA §§ 1971 and 1973i.

Notes of Decisions

Validity 1

1. Validity

L.1940, c. 199, which amended this section by making offenses mere cases of "disorderly conduct" punishable sum-

marily without indictment or without jury trial, was invalid on ground that the offenses were offenses which, under Const. 1844 Art. 1, pars. 7, 9, (now Const. Art. 1, pars. 9 and 8, respectively), were punishable only after indictment and trial by jury. *Wilentz v. Galvin*, 125 N.J.L. 455, 15 A.2d 903 (1940).

19:34-29. Obstructing or interfering with voter

No person shall by abduction, duress or any forcible or fraudulent device or contrivance whatever, impede, prevent or otherwise interfere with the free exercise of the elective franchise by any voter; or compel, induce or prevail upon any voter either to vote or refrain from voting at any election, or to vote or refrain from voting for any particular person or persons at any election.

Historical and Statutory Notes

Source: L.1930, c. 187, §461, p. 894.

Cross References

Duress, see § 2C:2-9.

Library References

Elections ⇨319.

WESTLAW Topic No. 144.

C.J.S. Elections § 330.

United States Code Annotated

Civil rights, interfering with voting rights by intimidation, threats or coercion, see 42 USCA §§ 1971 and 1973i.

19:34-30. Influencing of vote by employer; placards for such purpose

No employer, in paying his employees the salary or wages due them, shall inclose their pay in "pay envelopes" upon which there is written or printed the name of any candidate or any political motto, device or argument containing threats, express or implied, intended or calculated to influence the political opinions or actions of such employees. Nor shall an employer, within ninety days of an election, put up or otherwise exhibit in his factory, workshop, or other establishment or place where his workmen or employees may be working, any handbill or placard containing any threat, notice or information that in case any particular ticket of a political party, or organization, or candidate shall be elected, work in his establishment will cease, in whole or in part, or his establishment be closed up, or the salaries or wages of his employees be reduced, or other threat, express or implied, intended or calculated to influence the political opinions or actions of his employees.

Historical and Statutory Notes

Source: L.1930, c. 187, §462, p. 894.

Law Review and Journal Commentaries

Beyond the company town: Employees' right to privacy regarding off-duty conduct. Nancy Erika Smith & Kyle M. Francis, 158 N.J.Law. 13 (Mag.) (Jan. 1994).

Library References**Texts and Treatises**

26 Am Jur 2d, Elections § 387.

United States Code Annotated

Deprivation of employment or other benefit for political contributions, see 18 USCA § 601.

Promise of employment or other benefit for political activity, offense, see 18 USCA § 600.

19:34-31. Violation by person or corporation; misdemeanor; forfeiture of charter

Sections 19:34-27 to 19:34-30 of this title shall apply to corporations as well as individuals, and any person or corporation violating the provisions thereof shall be guilty of a misdemeanor, and any corporation violating such provisions shall forfeit its charter.

Historical and Statutory Notes

Source: L.1930, c. 187, §463, p. 895.

19:34-32. Contributions by insurance corporations

No insurance corporation or association doing business in this state shall, directly or indirectly, pay or use, or offer, consent or agree to pay or use, any money or property for or in aid of any political party, committee, organization or corporation, or for or in aid of any candidate for political office, or for nomination for such office, or for any political purpose whatsoever, or for the reimbursement or indemnification of any person for money or property so used.

Any officer, director, stockholder, attorney or agent of any corporation or association which violates any of the provisions of this title, who participates in, aids, abets, or advises or consents to any such violation, and any person who solicits or knowingly receives any money or property in violation of this title, shall be guilty of a misdemeanor.

Historical and Statutory Notes

Source: L.1930, c. 187, ¶464, p. 895.

Library References

Elections Ⓒ317.1.

WESTLAW Topic No. 144.

C.J.S. Elections § 329.

Texts and Treatises

26 Am Jur 2d, Elections §§381, 382.

Notes of Decisions

Bond issue elections 2
Insurance corporations 1

1. Insurance corporations

An insurance company doing business in this state and any non-insurance holding corporation of such an insurance company or any of the holding company's subsidiary corporations are prohibited from making political contributions to

any candidate for political office under the government of this state or any of its political subdivisions, to any political party in this state or for any political purpose whatsoever in this state. Atty.Gen.F.O. 1983, No. 4.

2. Bond issue elections

There is no statutory impediment to insurance companies' involvement in public bond referenda. Atty.Gen.F.O. 1979, No. 23.

19:34-33. Contributions by state, county or municipal committees

No state, county or municipal committee or organization of any political party shall expend any money in aid of the candidacy of any candidate for election as a delegate at any national convention, or

election to any party position, or for nomination as a candidate of a political party for public office.

Historical and Statutory Notes

Source: L.1930, c. 187, 1465, p. 895.

Library References

Elections Ⓒ317.1.

WESTLAW Topic No. 144.

C.J.S. Elections § 329.

19:34-34. Expenditures by party committee or organization or petitioners

No such party committee or organization, nor any committee of any group of petitioners, nor any other person shall expend any money in aid of any candidate for public office, except as herein otherwise provided.

Historical and Statutory Notes

Source: L.1930, c. 187, 1466, p. 895.

Library References

Elections Ⓒ317.1.

WESTLAW Topic No. 144.

C.J.S. Elections § 329.

19:34-35. Other contributions and expenditures

Any person who shall expend, aid or assist in the expenditure of any such money for a purpose not authorized by this title, or for a purpose not named in the statement accompanying such contribution, shall be guilty of a misdemeanor.

Historical and Statutory Notes

Source: L.1930, c. 187, 1467, p. 896.

Library References

Elections Ⓒ317.1.

WESTLAW Topic No. 144.

C.J.S. Elections § 329.

19:34-36. Repealed by L.1973, c. 83, § 26, eff. April 24, 1973

Historical and Statutory Notes

The repealed section, derived from L.1930, c. 187, ¶ 468, p. 896, prohibited specified political expenditures except for advertisements, meetings, rent and salaries.

19:34-37. Repealed by L.1973, c. 83, § 26, eff. April 24, 1973

Historical and Statutory Notes

The repealed section, derived from L.1930, c. 187, ¶ 469, p. 896, authorized certain political expenditures.

19:34-38. Certain expenditures prohibited

No person shall pay, lend or contribute, or offer or agree to pay, lend or contribute, any money or other valuable consideration to or for any person for any of the following:

a. The doing or procuring to be done of any act forbidden to be done by the laws relating to primary or general elections; or

b. The commission of any crime or offense against the elective franchise, or the encouragement or assistance of a person in the commission of a crime or offense against the elective franchise, or aiding or assisting any person charged with the commission of a crime against the elective franchise to evade arrest or to escape conviction and punishment; or

c. Providing, wholly or in part, directly or indirectly, for the expense of boarding, lodging or maintaining a person in any place of domicile in any election precinct or ward or district, with the purpose of securing the vote of such person, or of inducing such person to vote for himself, or any other person at an election; or

d. The hiring or employment of a person to take or maintain a place in, or to otherwise obstruct or hinder, or to prevent the forming of the line of voters awaiting their opportunity or time to enter the polling place or election booth of an election precinct; or

e. In consideration of any person withdrawing as a candidate for public office or presidential elector, at any election; or

f. To pay any person for loss or damage due to attendance at the polls at any primary or general or charter election, or any registry therefor, or for the purpose of such registration; or

g. For any purpose in contravention of the provisions of this Title; or

h. Making any payment except in the manner provided by this Title.

Amended by L.1940, c. 199, p. 854, § 10; L.1948, c. 438, p. 1705, § 19; L.1963, c. 57, § 1.

Historical and Statutory Notes

Source: L.1930, c. 187, ¶470, p. 898.

Library References

Elections ¶317.

WESTLAW Topic No. 144.

C.J.S. Elections § 329.

United States Code Annotated

Federal election campaigns, limitations on contributions and expenditures, see 2 USCA § 441a.

Notes of Decisions

Validity 1

Withdrawal of candidacy 2

1. Validity

L.1940, c. 199, which amended this section by making offenses mere cases of "disorderly conduct" punishable summarily without indictment or without jury trial, was invalid on ground that the offenses were offenses which, under Const. 1844 Art. 1, pars. 7, 9, (now Const. Art. 1,

pars. 9 and 8, respectively), were punishable only after indictment and trial by jury. *Wilentz v. Galvin*, 125 N.J.L. 455, 15 A.2d 903 (1940).

2. Withdrawal of candidacy

While candidate is free to withdraw his candidacy and support another, candidate may not offer to do so in return for money or other valuable consideration. *State v. Woodward*, 298 N.J.Super. 390, 689 A.2d 801 (A.D.1997).

19:34-38.1 to 19:34-38.5. Repealed by L.1995, c. 391, § 4, eff. Feb. 1, 1996

Historical and Statutory Notes

Repealed §§ 19:34-38.1 to 19:34-38.4, which related to printing and distribution of campaign advertisements, records required to be maintained by printer or publisher, required name and address of issuer to appear on campaign advertisements and exempted bona fide news items and editorials from campaign disclosure laws, were derived from L.1930, c. 187; L.1963, c. 57, §§ 2 to 5.

Repealed § 19:34-38.5, relating to violations of campaign advertising disclosure law and authorizing confiscation and destruction of materials not meeting disclosure requirements, was derived from L.1966, c. 70, § 1; L.1991, c. 91, § 257.

See, now, §§ 19:44A-22.2, 19:44A-22.3.

19:34-39. Other expenditures prohibited

No person directly or indirectly, by himself or through any other person:

Inducing voters. a. Shall pay, lend or contribute, or offer or promise to pay, lend or contribute, money or other valuable consideration to or for any voter, or to or for any other person, to induce such voter to vote or refrain from voting at any election, or to induce any voter to vote or refrain from voting at such election for any particular person or persons, or to induce such voter to come to or remain away from the polls at such election, or because of such voter having voted or refrained from voting or having voted or refrained from voting for any particular person, or having come to or remained away from the polls at such election.

Employment purposes. b. Shall give, offer or promise any office, place or employment, or to promise to procure or endeavor to procure any office, place or employment to or for any voter, or to or for any other person, in order to induce such voter to vote or refrain from voting at any election, or to induce any voter to vote or refrain from voting at such election for any particular person or persons.

Gifts or other inducements. c. Shall make any gift, loan, promise, offer, procurement or agreement, to, for or with any person, in order to induce him to procure, or endeavor to procure, the election of any person, or the vote of any voter at any election.

Procuring votes. d. Shall procure, or engage, promise or endeavor to procure, in consequence of any gift, loan, offer, promise, procurement or agreement, the election of any person, or the vote of any voter at such election.

Furnishing means for bribery. e. Shall advance or pay, or cause to be paid, money or other valuable thing, to or for the use of any other person, with the intent that the same, or any part thereof, shall be used in bribery at any election, or to knowingly pay, or cause to be paid, any money or other valuable thing to any person in discharge or repayment of any money, wholly or in part, expended in bribery at any election.

Assist in evading arrest. f. Shall advance or pay, or cause to be paid, money or other valuable thing, to or for the use of any other person, with the intent that the same, or any part thereof, shall be used to aid or assist any person to evade arrest who is charged with the commission of a crime against the elective franchise.

Indorsement of candidates. g. Shall advance or pay, or cause to be paid, money or other valuable thing, to or for the use of any other person, in consideration of being selected or indorsed as the candidate of any convention, organized assemblage of delegates, or other body representing, or claiming to represent, a political party or principle, or any club, society or association, for a public office, or in consideration of the selection or indorsement of any other person as a candidate for a public office, or in consideration of any member of

a convention, club, society or association, having voted to select or indorse any person as a candidate for a public office.

Withdrawal of candidates. h. Shall advance or pay, or cause to be paid, any money or other valuable thing to or for the use of any other person, in consideration of a person withdrawing as a candidate for a public office.

Historical and Statutory Notes

Source: L.1930, c. 187, 1471, p. 900.

Library References

Elections ⇨ 317.1.

WESTLAW Topic No. 144.

C.J.S. Elections § 329.

Texts and Treatises

26 Am Jur 2d, Elections § 382.

19:34-40. Receipts for certain purposes prohibited

No person, directly or indirectly, by himself or through any other person:

Voting or agreeing to vote. a. Shall receive, agree or contract for, before or during an election, any money, gift, loan or other valuable consideration, office, place or employment, for himself or any other person, for voting or agreeing to vote, or for coming or agreeing to come to the polls, or for refraining or agreeing to refrain from voting, or for voting or agreeing to vote, or refraining or agreeing to refrain from voting for any particular person or persons at any election.

Voting or refraining from voting. b. Shall receive any money or other valuable thing during or after an election, because of himself, or any other person, having voted or refrained from voting for any particular person or persons at such election, or because of himself, or any other person having come to the polls or remained away from the polls at such election, or because of having induced any other person to vote or refrain from voting, or to vote or refrain from voting for any particular person or persons, or to come to or remain away from the polls at such election.

Securing delegates or indorsements. c. Shall receive any money or other valuable thing before, during or after an election, because of himself, or any other person having voted to secure the election or indorsement of any other person as the nominee or candidate of any convention, organized assemblage of delegates or other body, representing, or claiming to represent, a political party or principle, or any

club, society or association, or because of himself or any other person having aided in securing the selection or indorsement of any other person as a nominee or candidate as above.

Historical and Statutory Notes

Source: L.1930, c. 187, ¶472, p. 902.

Library References

Texts and Treatises

26 Am Jur 2d, Elections § 385.

United States Supreme Court

Promise to reduce salary by candidate, inapplicability of law to prohibit giving or promising to give anything of value for

vote, see *Brown v. Hartlage*, 1982, 102 S.Ct. 1523, 456 U.S. 45, 71 L.Ed.2d 732.

19:34-41. Payments and bank deposits in name of another

No person shall make any payment of his money, or of the money of any other person, in connection with any nomination or election in any other name than that of the person who actually supplies such money, nor shall any person knowingly receive such money, or thing of value, and enter it in his accounts or deposit it in any bank or trust company, in any other name than the name of the person who actually supplies the same.

Historical and Statutory Notes

Source: L.1930, c. 187, ¶473, p. 902.

19:34-42. Demand of contributions by office holders from other office holders

No holder of a public office or position shall demand payment or contribution from another holder of a public office or position for the campaign purposes of any candidate or for the use of any political party.

Amended by L.1975, c. 70, § 1, eff. April 24, 1975.

Historical and Statutory Notes

Source: L.1930, c. 187, ¶474, p. 903.

Title of Act:

An Act related to political contributions, supplementing P.L.1973, c. 83 and amending R.S. 19:34-42. L.1975, c. 70.

Library References

Elections ⇨317.1.

WESTLAW Topic No. 144.

C.J.S. Elections § 329.

Texts and Treatises

26 Am Jur 2d, Elections § 379.

19:34-42.1. Annual notice

The Secretary of State shall, during the week of the third Monday in January of every year, send written notification to each State employee and each county and municipal clerk of the prohibitions of this act, and shall at the same time publicize such written notification.

L.1975, c. 70, § 2, eff. April 24, 1975.

Library References

Elections ⇨317.

WESTLAW Topic No. 144.

C.J.S. Elections § 329.

19:34-42.2. Violations; penalty

Section 1 of this act shall be subject to the penalty provisions of R.S. 19:34-35, but no penalty shall be imposed pursuant to any section of law amended herein for violations occurring prior to the effective date of this act.

L.1975, c. 70, § 3, eff. April 24, 1975.

Library References

Elections ⇨323.

WESTLAW Topic No. 144.

C.J.S. Elections § 355.

19:34-43. Soliciting for religious and charitable organizations

No person shall demand, solicit, ask or invite any payment or contribution for any religious, charitable or other cause or organization supposed to be primarily for the public good, from any candidate for nomination or election.

Historical and Statutory Notes

Source: L.1930, c. 187, ¶475, p. 903.

19:34-44. Solicitation of candidates for contributions

No person shall demand, solicit, ask or invite any candidate for nomination or election to public office or party position to subscribe

for the support of any club or organization, or to buy tickets to any entertainment or ball, or to pay for space in any book, program, periodical or publication.

This prohibition shall not apply to the solicitation of business advertising in periodicals in which the candidate was a regular advertiser prior to his candidacy, nor to ordinary business advertising, nor to the regular payments to any organizations, religious, charitable or otherwise, of which he was a member, or to which he was a contributor for more than six months before his candidacy, nor to any ordinary contributions at church services.

Historical and Statutory Notes

Source: L.1930, c. 187, §476, p. 903.

19:34-45. Contributions by certain corporations

No corporation carrying on the business of a bank, savings bank, co-operative bank, trust, trustee, savings indemnity, safe deposit, insurance, railroad, street railway, telephone, telegraph, gas, electric light, heat or power, canal or aqueduct company, or having the right to condemn land, or to exercise franchises in public ways granted by the state or any county or municipality, and no corporation, person, trustee or trustees, owning or holding the majority of stock in any such corporation, shall pay or contribute money or thing of value in order to aid or promote the nomination or election of any person, or in order to aid or promote the interests, success or defeat of any political party.

Historical and Statutory Notes

Source: L.1930, c. 187, §477, p. 903.

American Law Reports

Constitutionality, construction, and application of 18 USCA sec. 610, prohibiting national banks, corporations, and labor organizations from making contributions or expenditures in con-

nection with federal elections, 24 ALR Fed 162.
Power of corporation to make political contribution or expenditure under state law, 79 ALR3d 491.

Library References

Elections §317.2.
WESTLAW Topic No. 144.
C.J.S. Elections § 329.

Texts and Treatises

26 Am Jur 2d, Elections § 381.

United States Code Annotated

Political contributions or expenditures by national banks, corporations, or labor organizations, see 2 USCA § 441b.

Notes of Decisions

Recipient of contribution 3

Related statutes 1

Source of contribution 2

1. Related statutes

Provision of § 19:34-1 prohibiting false registration of voters, and providing penalty for anyone "who violates any of the provisions of this title," was part of comprehensive statute enacted under general title of "An Act to Regulate Elections," and such general penalty provision applied to violation of provision of this section providing that "No bank * * * shall pay or contribute money or thing of value in order to aid or promote the nomination or election of any person." *State v. Bank of New Jersey*, 139 N.J.Super. 593, 354 A.2d 693 (L.1976).

2. Source of contribution

An insurance company doing business in this state and any non-insurance holding corporation of such an insurance company or any of the holding company's subsidiary corporations are prohibited from making political contributions to

any candidate for political office under the government of this state or any of its political subdivisions, to any political party in this state or for any political purpose whatsoever in this state. *Atty.Gen.F.O.* 1983, No. 4.

3. Recipient of contribution

Purchase by bank of ten \$100 tickets to political reception and dinner, payment of which was by check payable to candidate's campaign committee, constituted payments prohibited by this section providing that "No bank * * * shall pay or contribute money or thing of value in order to aid or promote the nomination or election of any person." *State v. Bank of New Jersey*, 139 N.J.Super. 593, 354 A.2d 693 (L.1976).

This section was not intended to prohibit the establishment of a separate political fund contributed to voluntarily by members of a political action committee with knowledge of the intended political use of the fund; a bank's corporate funds may not be used to establish, administer or solicit contributions for the political fund. *Atty.Gen.F.O.* 1979, No. 14.

19:34-46. Disfranchisement as additional penalty

In addition to any penalties provided for violation of any of the provisions of this title, the court imposing such penalty may add thereto that such offender be thenceforth disfranchised as a voter and disqualified to hold any office of trust or profit within this state for such length of time as such court deems proper.

Historical and Statutory Notes

Source: L.1930, c. 187, §478, p. 904.

19:34-47. Second offense; punishment

A person who, having once been convicted of a violation of any of the provisions of this title, shall again be convicted of a violation of any of its provisions, whether such conviction be for the same offense or not, shall on such second conviction, be sentenced to disfranchisement and to pay a fine not exceeding one thousand dollars, or to imprisonment for a term not exceeding five years, or both.

Historical and Statutory Notes

Source: L.1930, c. 187, ¶479, p. 904.

Library References

Texts and Treatises

39 Am Jur 2d, Habitual Criminals and
Subsequent Offenders §§2-7, 14, 30.

19:34-48. Neglect of duties

Every person charged with the performance of any duty under the provisions of any law of this state relating to elections who willfully neglects or refuses to perform it, or who, in his official capacity, knowingly and fraudulently acts in contravention or violation of any of the provisions of such laws, shall be guilty of a misdemeanor.

Historical and Statutory Notes

Source: L.1930, c. 187, ¶480, p. 904.

Library References

Elections Ⓒ314.

WESTLAW Topic No. 144.

C.J.S. Elections § 327.

Notes of Decisions

Announcement of results 6

Ballots 4

Intent 2

Polls 5

Strict construction 1

Voter lists 3

1. Strict construction

The rule that penal statutes such as a provision as L.1898, p. 331, § 217, repealed, fixing penalty for disregard of duty by election official, must be construed strictly is perhaps not less old than construction itself. It is founded on the tenderness of the law for the rights of individuals, and on the plain principle that the power of punishment is vested in the legislative, not the judicial, department. *Woodruff v. State*, 68 N.J.L. 89, 52 A. 294 (1902).

2. Intent

The primary election law is to ensure that the choice of the party should prevail and anything done by the board of elec-

tions or any member, knowingly or willfully, for the purpose of distorting the desires of a party as to the ballots, shall be a criminal offense and punishable accordingly. A mere mistake however, unless intentional, does not constitute violation under the law. *Charge to Grand Jury*, 29 N.J.L.J. 62 (1906).

If a district board of election negligently violates its duty, or through neglect omits to do the same, the offense is committed, though not done willfully. *Charge to the Grand Jury*, 27 N.J.L.J. 358 (1904).

3. Voter lists

The entire board should be indicted for its willful refusal to certify and file, as provided by law, the revised and corrected register of the voters, which a majority of the board had assented to, or had voted were legal voters, and whose names had been entered upon the register by the vote or consent of a majority of the board. *Charge to the Grand Jury*, 27 N.J.L.J. 358 (1904).

4. Ballots

Statute providing that where name of person is written or pasted in personal choice column and marked in square to left it shall be counted as vote for such person may be fairly interpreted as meaning that board is not to count vote if name is not so written or pasted, and a failure by board to follow such clear mandate will subject it to possible criminal prosecution. *Petition of Keogh-Dwyer*, 85 N.J.Super. 188, 204 A.2d 351 (A.D. 1964), reversed on other grounds 45 N.J. 117, 211 A.2d 778.

In prosecution of election officer for nonfeasance in failing to reject illegal ballots, carefully count and truly note on tally sheet votes for each candidate, and personally examine such sheets, verdict of conviction was not against weight of evidence. *State v. Tulenko*, 133 N.J.L. 385, 44 A.2d 350 (1945).

The failure of election district boards to require affidavits of voters needing assistance in marking their ballots does not invalidate their ballots and is not a cause for contest, but is a procedural neglect punishable by removal, fine, or imprisonment, according to the circumstances. *Petition of Clee*, 119 N.J.L. 310, 196 A. 476 (1938).

"The statute [L.1898, p. 273, § 68, repealed] expressly provides that a person claiming the right to vote must keep his ballot in his own hand until the board has decided to receive it. The judge of election has no right to take the ballot or deposit it until its admission had been decided on. To deposit a challenged bal-

lot before it is decided by the majority to receive it, is a willful violation of duty, for which a judge of election should be indicted. Such an act nullifies the statute." Charge to the Grand Jury, 27 N.J.L.J. 358 (1904).

Any officer of the election board who willfully withheld the ballots or envelopes and violated his duty to deliver them to the board in the manner provided by statute, should be indicted. Charge to the Grand Jury, 27 N.J.L.J. 358 (1904).

5. Polls

If members of a district election board intended the election should not be conducted, and by their conduct in rejecting all votes offered, prevented its being conducted, then they willfully did prevent the opening of the polls. *State v. Reilly*, 29 N.J.L.J. 16 (1906).

An indictment should be found against the entire board of registry and elections for its willful refusal to open the polls and hold the election, thus willfully depriving citizens of their right of suffrage. Charge to the Grand Jury, 27 N.J.L.J. 358 (1904).

6. Announcement of results

Evidence warranted conviction of election judge for illegal conduct in announcing result of individual ballots in that he read off the name of a Democratic candidate in numerous cases although the ballot was for the Republican candidate. *State v. Larison*, 134 N.J.L. 126, 46 A.2d 386 (1946), affirmed 134 N.J.L. 604, 48 A.2d 824.

19:34-49. Abetting violations of title

Any candidate who procures, aids, assists, counsels, advises or knowingly permits any person to violate this title shall be guilty of a misdemeanor.

Historical and Statutory Notes

Source: L.1930, c. 187, ¶481, p. 905.

19:34-50. Committeemen acting after their election voided

Any person chosen as member of the state committee, county committee, or any municipal committee of any political party who shall sit or perform any duty, or exercise any functions as a member of such committee after his election thereto shall have been declared

null and void, shall be guilty of a misdemeanor, and each member of any such committee who shall vote to recognize any such member after such election shall have been declared null and void shall likewise be guilty of a misdemeanor.

Historical and Statutory Notes

Source: L.1930, c. 187, ¶482, p. 905.

19:34-51. Failure of delegate to national convention to surrender void certificate

Any delegate at large or district delegate to any national convention who shall fail to surrender such certificate of election forthwith after the same has been declared null and void, or who shall use such certificate of election, or who shall present such certificate of election as a credential at any such convention, or to any committee on credentials at such convention, or who shall leave the limits of this state with such certificate in his possession with intent to use the same as a credential for admission to any political convention, shall be guilty of a misdemeanor.

Historical and Statutory Notes

Source: L.1930, c. 187, ¶483, p. 905.

19:34-52. Indorsement of candidate by party committee before primary

No state, county or municipal committee of any political party shall prior to any primary election indorse the candidacy of any candidate for a party nomination or position.

Historical and Statutory Notes

Source: L.1930, c. 187, ¶484, p. 905.

Library References

Elections ⇨121(1).

WESTLAW Topic No. 144.

C.J.S. Elections § 83 et seq.

Notes of Decisions

Committee members 3

Purpose 1

Subcommittees 2

1. Purpose

Purpose of this section precluding endorsements by political party committees

Note 1

prior to primary elections is to prevent interference by the committee with the candidacies of persons running for party nomination. *Cavanagh v. Morris County Democratic Committee*, 121 N.J.Super. 430, 297 A.2d 594 (Ch.1972).

2. Subcommittees

Establishment of candidate screening committee by county Democratic committee violated this section providing that no state, county or municipal committee of any political party shall endorse any candidate prior to any primary election, despite contention that this section was only applicable to the county committee itself and not to a committee thereof. *Cavanagh v. Morris County Democratic*

Committee, 121 N.J.Super. 430, 297 A.2d 594 (Ch.1972).

3. Committee members

Political party committees or subcommittees thereof are prohibited from endorsing a candidate prior to the primary election, but an individual member of a party committee is free to express individually his or her own preference. *Gillen v. Sheil*, 174 N.J.Super. 386, 416 A.2d 935 (L.1980).

Political party committees or subcommittees of the political party committees are prohibited from endorsing candidates prior to the primary election, but an individual member of a party committee is free to express individually his or her own preference. *Atty.Gen.F.O.1977*, No. 9.

19:34-53. Failure to supply information

Any person who neglects or refuses to furnish any information required or authorized by this title or to exhibit the records, papers or documents herein authorized to be inspected, or which are required to be exhibited, shall be guilty of a misdemeanor.

Historical and Statutory Notes

Source: L.1930, c. 187, ¶485, p. 906.

Library References

Elections ¶317.4.

WESTLAW Topic No. 144.

C.J.S. Elections § 329.

19:34-54. Failure to obey subpoena or refusal to testify

Any person who shall omit, neglect or refuse to obey a subpoena attested in the name of the county clerk, municipal clerk, or county board and made returnable by such clerk or board, or refuses to testify under oath before such clerk or board, shall be guilty of a misdemeanor.

Historical and Statutory Notes

Source: L.1930, c. 187, ¶486, p. 906.

19:34-55. False statements under oath

Any person who makes any false statement under oath before the county clerk, municipal clerk or county board shall be guilty of a misdemeanor.

Historical and Statutory Notes

Source: L.1930, c. 187, 1487, p. 906.

Cross References

Perjury and other falsification in official matters, see §§ 2C:28-1 et seq., 41:3-1, 41:3-2.

19:34-56. Disobedience of subpoena; civil penalty; body attachment; contempt of court

Every person upon whom a subpoena issued under and by virtue of this Title shall have been served, and to whom the lawful fees shall have been paid or tendered, shall obey the command of such subpoena, under the penalty of fifty dollars (\$50.00), to be sued for and recovered, with costs, in a civil action, before any court of competent jurisdiction, by the person on whose application such subpoena shall have been issued; but no person shall in any case be required to attend any such examination as a witness out of the county in which he resides.

If any person so duly subpoenaed shall neglect or refuse to obey the command of such subpoena, any judge of the Superior Court may, on due proof by affidavit of the service of the subpoena on such witness, and of the payment of his legal fees and of his refusal or neglect to obey the command of the subpoena, issue an attachment against the person to bring him before such judge; and the judge shall have power to proceed against such witness as for a contempt of court.

Amended by L.1953, c. 19, p. 352, § 54; L.1991, c. 91, § 258, eff. April 9, 1991.

Historical and Statutory Notes

Source: L.1930, c. 187, 1488, p. 906.

Cross References

Contempts of court, see § 2A:10-1 et seq.

Library References

Execution ⇨423.

C.J.S. Executions §§ 413, 414.

Witnesses ⇨21.

C.J.S. Witnesses § 27.

WESTLAW Topic Nos. 161, 410.

Forms

7 Am Jur Pl & Pr Forms, Rev, Contempt, Forms 54.

19:34-57. Subpoenas; officers required to issue; expense of; not issued on election day

If proof be made before any judge of the Superior Court or municipal court of facts constituting probable cause for believing that this Title has been violated, and that any person other than the accused has knowledge of the circumstances connected therewith, such judge shall issue process of subpoena for the appearance of such person before him, to be examined touching the same. The lawful expenses of such subpoena and examination shall be paid by the applicant therefor, and such evidence shall be filed with the clerk of the county, to be used before the grand jury. No such process of subpoena shall be issued or served nor any such examination held on the day of election.

Amended by L.1953, c. 19, p. 352, § 55; L.1991, c. 91, § 259, eff. April 9, 1991.

Historical and Statutory Notes

Source: L.1930, c. 187, ¶489, p. 907.

Rules

Subpoenas, generally, see Rule 1:9-1 et seq., set out in the New Jersey Code of Criminal Justice Pamphlet.

Library References

Witnesses ☞ 1, 8.

WESTLAW Topic No. 410.

C.J.S. Witnesses §§ 2 to 26.

19:34-58 to 19:34-61. Repealed by L.1981, c. 390, § 13, eff. Jan. 6, 1982**Historical and Statutory Notes**

The repealed sections, derived from L.1930, c. 187, ¶¶ 490 to 493, pp. 907, 908, required all witnesses to testify in trials of indictments for violations of provisions of this title, granted immunity for

any testimony or compulsory production of books and papers, and made the testimony of any offender of a provision of this title competent against another offender.

19:34-62. Prosecutor of pleas to present violations to grand jury

If the prosecutor of the pleas of the county shall be notified of any violation of any of the provisions of this title, he shall forthwith diligently inquire into the facts, and if there is reasonable ground for instituting a prosecution, such prosecutor of the pleas shall present the charge, with all the evidence which he can procure, to the grand jury of the county. Nothing herein contained shall justify any such

prosecutor in counties of the first class in exercising the powers conferred upon the superintendent of elections in such counties.

Historical and Statutory Notes

Source: L.1930, c. 187, 1494, p. 909.

Cross References

Substitution of county prosecutor for prosecutor of pleas, see § 2A:158-2.

Library References

Elections ⇨328(1).
WESTLAW Topic No. 144.
C.J.S. Elections §§ 345, 346.

Notes of Decisions

Authority of prosecutor 4
Initiation of investigation 3
Presentation to grand jury 1
Report by superintendent 2

1. Presentation to grand jury

If totality of circumstances were such as to indicate a wilfully significant election law violation clearly calling for prosecution, court would not have been barred by doctrine of separation of powers or otherwise from directing that prosecutor submit matter to grand jury in regular course. In re Ringwood Fact Finding Committee, 65 N.J. 512, 324 A.2d 1 (1974).

Where violation of election law, if any, was technical and unintentional and public interest would not have been served by pursuing it, and prosecutor did not act arbitrarily but acted conscientiously within his discretionary powers, Law Division should not have directed that matter be presented to grand jury but should have granted prosecutor's motion to dismiss. In re Ringwood Fact Finding Committee, 65 N.J. 512, 324 A.2d 1 (1974).

Absent a request by prosecutor, or by the grand jury, citizens' retained attorney is not entitled to and should not be permitted to be in attendance during presentation of election complaint to grand jury, and in no circumstances may the retained attorney be present during its deliberations. In re Ringwood Fact Finding Committee Violation of N.J.S.A.

19:34-38.1, 124 N.J.Super. 310, 306 A.2d 487 (A.D.1973), reversed on other grounds 65 N.J. 512, 324 A.2d 1.

2. Report by superintendent

It is clear that legislature intended that its duly established administrative expert in election matters, the superintendent of elections, should have primary responsibility to investigate alleged violations of election laws but, after superintendent concludes his investigation, he may, if he feels there is reasonable evidence to warrant criminal action, refer his report to prosecutor for action before grand jury. Ruvoldt v. Tumulty, 107 N.J.Super. 545, 259 A.2d 491 (L.1969), affirmed 107 N.J.Super. 494, 259 A.2d 465.

3. Initiation of investigation

Second-class county's prosecutor was not required to await result of Election Law Enforcement Commission's (ELEC) inquiry before investigating election-law violations. Cupano v. Gluck, 133 N.J. 225, 627 A.2d 624 (1993).

Where county prosecutor, through an erroneous view of his jurisdiction, acted beyond his powers and by-passed statutory authority given superintendent of elections by initiating an investigation into allegedly false challenge permits employed in primary election, prosecutor would be permanently enjoined from proceeding with matter until superintendent of elections had an opportunity to complete an investigation and determine

Note 3

whether matter should be referred to prosecutor. *Ruvoldt v. Tumulty*, 107 N.J.Super. 545, 259 A.2d 491 (L.1969), affirmed 107 N.J.Super. 494, 259 A.2d 465.

4. Authority of prosecutor

County prosecutors have parallel authority with legislatively created administrative agencies to investigate election-law violations in all counties other than first-class counties. *Cupano v. Gluck*, 133 N.J. 225, 627 A.2d 624 (1993).

19:34-63. Assistant for prosecutor; employment by citizens

Any citizen may employ an attorney to assist the prosecutor of the pleas to perform his duties under this title, and such attorney shall be recognized by the prosecutor of the pleas and the court as associate counsel in the proceedings.

No prosecution, action or proceeding shall be dismissed without notice to, or against the objection of, such associate counsel until the reasons of the prosecutor of the pleas for such dismissal, together with the objections thereto of such associate counsel, shall have been filed in writing, argued by counsel and considered by the court, with such limitation as to the time of filing such reasons and objections as the court may impose.

Historical and Statutory Notes

Source: L.1930, c. 187, §495, p. 909.

Library References

District and Prosecuting Attorneys	C.J.S. District and Prosecuting Attorneys
§3(1).	§ 28.
WESTLAW Topic No. 131.	

Texts and Treatises

63A Am Jur 2d, Prosecuting Attorneys
§ 13.

Notes of Decisions

Associate counsel 2

Dismissal 3

Purpose 1

1. Purpose

Purpose of this section providing that any citizen may employ an attorney to assist prosecutor of pleas to perform his duties is to guarantee a vigorous prosecution and prevent any attempts at a "whitewash" of the charges. *Ruvoldt v. Tumulty*, 107 N.J.Super. 545, 259 A.2d 491 (L.1969), affirmed 107 N.J.Super. 494, 259 A.2d 465.

2. Associate counsel

Absent a request by prosecutor, or by the grand jury, citizens' retained attorney is not entitled to and should not be permitted to be in attendance during presentation of election complaint to grand jury, and in no circumstances may the retained attorney be present during its deliberations. In re Ringwood Fact Finding Committee Violation of N.J.S.A. 19:34-38.1, 124 N.J.Super. 310, 306 A.2d 487 (A.D.1973), reversed on other grounds 65 N.J. 512, 324 A.2d 1.

Although, by this section any citizen may employ an attorney to assist prosecu-

tor of pleas to perform his duties, an order requiring count prosecutor to recognize plaintiffs' nominee as associate counsel in connection with an investigation into election irregularities would not issue, where prosecutor had been enjoined from continuing his investigation until after superintendent of elections had acted. *Ruvoldt v. Tumulty*, 107 N.J.Super. 545, 259 A.2d 491 (L.1969), affirmed 107 N.J.Super. 494, 259 A.2d 465.

Before ordering a prosecutor to accept a citizen's nominee as associate counsel in connection with a particular proceeding, court must be convinced that interest of proposed associate counsel does not conflict with intended prosecution. *Ru-*

voldt v. Tumulty, 107 N.J.Super. 545, 259 A.2d 491 (L.1969), affirmed 107 N.J.Super. 494, 259 A.2d 465.

3. Dismissal

Where violation of election law, if any, was technical and unintentional and public interest would not have been served by pursuing it, and prosecutor did not act arbitrarily but acted conscientiously within his discretionary powers, Law Division should not have directed that matter be presented to grand jury but should have granted prosecutor's motion to dismiss. *In re Ringwood Fact Finding Committee*, 65 N.J. 512, 324 A.2d 1 (1974).

19:34-64. Short title

This act shall be known and may be cited as the "Fair Campaign Practices Act."

L.1975, c. 190, § 1, eff. Aug. 16, 1975.

Historical and Statutory Notes

Title of Act:

An Act regarding campaign practices and supplementing chapter 34 of Title 19 of the Revised Statutes. L.1975, c. 190.

19:34-65. Person performing function in campaign of candidate for purpose of impeding campaign

No person shall perform any function in the campaign of a candidate for public office or party position for the purpose of impeding the campaign of such candidate while concealing that he is actually acting under the instructions of, or on behalf of, another candidate or such other candidate's paid or volunteer campaign staff.

L.1975, c. 190, § 2, eff. Aug. 16, 1975.

Library References

Elections ⇨309, 318.

WESTLAW Topic No. 144.

C.J.S. Elections §§ 324, 331, 334.

Texts and Treatises

25 Am Jur 2d, Elections §§371 et seq.

15 Am Jur Trials 1, Unfair Election Campaign Practices.

19:34-66. Knowing production, transmittal or dissemination of mass communication which appears to originate from or be on behalf of campaign of candidate for purpose of impeding campaign

No person shall knowingly produce, transmit or disseminate any election advertisement, literature or other mass communication in any medium, including but not limited to newspapers, magazines, printed circulars, television, radio, movies, telephone, telegraph, billboards and signs, which purports to or appears to originate from, or be on behalf of, the campaign of a candidate for public office or party position, for the purpose of impeding the campaign of such candidate while failing to reveal specifically in such communication that he is acting under the instructions of, or on behalf of, another candidate or such other candidate's paid or volunteer campaign staff; provided, however, that this section shall not apply to any owner, manager, editor, publisher, reporter or employee of any newspaper, magazine, periodical or other publication or of any radio or television station who, in the course of his duties, publishes or broadcasts any such advertisement, literature or mass communication.

L.1975, c. 190, § 3, eff. Aug. 16, 1975.

Library References

Elections Ⓒ311.1.

WESTLAW Topic No. 144.

C.J.S. Elections § 324.

United States Supreme Court

Elections, distribution of anonymous campaign literature, see <i>McIntyre v. Ohio Elections Com'n</i> , 1995, 115 S.Ct. 1511,	514 U.S. 334, 131 L.Ed.2d 426, on remand 72 Ohio St.3d 1544, 650 N.E.2d 903.
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19:34-67. Payment of or lending money or other valuable consideration to person to induce violation of act

No person shall, directly or indirectly, by himself or through any other person acting in his behalf, knowingly give, lend, or agree, offer or promise to give or lend, any money or other valuable consideration, office, place, employment or thing to any person to induce him to violate section 2 or section 3 of this act.¹

L.1975, c. 190, § 4, eff. Aug. 16, 1975.

¹ N.J.S.A. §§ 19:34-65, 19:34-66.

Library References

Elections Ⓒ316.

WESTLAW Topic No. 144.

C.J.S. Elections § 332.

19:34-68. Violators; disorderly persons

Any person who shall violate any of the provisions of this act shall be a disorderly person.

L.1975, c. 190, § 5, eff. Aug. 16, 1975.

SUBTITLE 8
WAR TIME VOTING [REPEALED]

CHAPTER 35

WHEN ALLOWED; PROCEDURE

19:35-1 to 19:35-18. Repealed by L.1942, c. 18, p. 45, § 16

Historical and Statutory Notes

The repealed sections were derived from L.1930, c. 187, pp. 909 to 915, §§ 496 to 513, and related to voting by persons who were in military service and absent from their voting district.

Provisions relating to absentee military service voting are now contained in § 19:57-1 et seq.

SUBTITLE 9

ELECTORAL COLLEGE

Chapter 36. Meeting and Duties.

CHAPTER 36

MEETING AND DUTIES

Section

- 19:36-1. Time and place of meeting.
- 19:36-2. Vacancies; filling.
- 19:36-3. Organization; performance of duties.

Library References

- United States \S 25.
- WESTLAW Topic No. 393.
- C.J.S. United States \S 28.

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19:36-1. Time and place of meeting

The electors of president and vice president shall convene at the state house at Trenton, on the day appointed by congress for that purpose, at the hour of three o'clock in the afternoon of that day, and constitute an electoral college.

Historical and Statutory Notes

Source: L.1930, c. 187, §1514, p. 915.

United States Code Annotated

Constitutional and statutory provisions relating to Presidential and Vice Presidential electors, see U.S.C.A.Const. Art. 2, § 1; U.S.C.A.Const. Amend. 12; and 3 U.S.C.A. § 1 et seq.

19:36-2. Vacancies; filling

When a vacancy shall happen in the college of electors, or when an elector shall fail to attend, by the hour of three o'clock in the afternoon of the day fixed by congress for the meeting of the college of electors, at the place of holding such meeting, those of such electors who shall be assembled at the hour and place shall immediately proceed to fill by a majority of votes such vacancy.

If the members of the electoral college shall have been nominated and elected as representing different political parties, any vacancy occurring shall be filled by the elector or electors representing the same political party as the absent elector; and if there shall be no elector present representing the same political party as the absent elector, then such vacancy shall be filled by a majority of the electors present, who shall choose some person of the political party which the absent elector represents.

Historical and Statutory Notes

Source: L.1930, c. 187, §1515, p. 915.

19:36-3. Organization; performance of duties

After choosing a president and secretary from their own body, such electors shall proceed to perform the duties required of them by the constitution and laws of the United States.

Historical and Statutory Notes

Source: L.1930, c. 187, §1516, p. 915.

SUBTITLE 10

NONBINDING COUNTY OR MUNICIPAL REFERENDA

Chapter

37. Procedure and Effect.

CHAPTER 37

PROCEDURE AND EFFECT

Section

- 19:37-1. Ordinance or resolution for submitting question.
19:37-1.1. Request by voters; petition.
19:37-2. Question placed on ballot by county clerk.
19:37-3. Count and canvass of votes.
19:37-4. Result not binding.
19:37-5. Ordinance or resolution necessary.

Library References

Counties Ⓒ55.

C.J.S. Counties §§ 87 to 91.

Municipal Corporations Ⓒ108 et seq.

C.J.S. Municipal Corporations § 449 et
seq.

WESTLAW Topic Nos. 104, 268.

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19:37-1. Ordinance or resolution for submitting question

When the governing body of any municipality or of any county desires to ascertain the sentiment of the legal voters of the municipality or county upon any question or policy pertaining to the govern-

ment or internal affairs thereof, and there is no other statute by which the sentiment can be ascertained by the submission of such question to a vote of the electors in the municipality or county at any election to be held therein, the governing body may adopt at any regular meeting an ordinance or a resolution requesting the clerk of the county to print upon the official ballots to be used at the next ensuing general election a certain proposition to be formulated and expressed in the ordinance or resolution in concise form. Such request shall be filed with the clerk of the county not later than 74 days previous to the election.

Amended by L.1942, c. 50, p. 287, § 13; L.1967, c. 101, § 1, eff. June 12, 1967; L.1985, c. 92, § 29, eff. March 26, 1985.

Historical and Statutory Notes

Effective date and application of L.1985, c. 92, see Historical Note under § 18A:9-10.

Statement: Committee statement to Senate, No. 2244-L.1985, c. 92, see § 18A:9-10.

Library References

Comments

Nonbinding referenda, see 35 New Jersey Practice, Pane, § 483.
Municipal Corporations ¶108.6

WESTLAW Topic No. 268.
C.J.S. Municipal Corporations §§ 450, 454.

WESTLAW Electronic Research

See WESTLAW Electronic Research Guide following the Preface.

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Eatontown v. Danskin, 121 N.J.Super. 68, 296 A.2d 81 (L.1972).

3. Authority of governing body

State taxes and school aid did not fall within category of matters within power of county so that county board of freeholders lacked authority to pose referendum question asking voters whether board should resolve to take action to seek repeal of legislation affecting those areas. New Jersey State AFL-CIO v. Bergen County Bd. of Chosen Freeholders, 121 N.J. 255, 579 A.2d 1231 (1990).

This section refers to a question of policy relating to matters in that sphere of government committed by law to and within or related to the powers of the body permitted to call for a referendum, and matter of school district deconsolidation is outside the governing body's sphere. Botkin v. Mayor and Borough Council of Borough of Westwood, 52

1. Liberal construction

Referendum provisions are to be liberally construed. Borough of Eatontown v. Danskin, 121 N.J.Super. 68, 296 A.2d 81 (L.1972).

2. Purpose

Purpose of referendum procedures is to encourage citizen interest and participation in municipal affairs. Borough of

N.J.Super. 416, 145 A.2d 618 (A.D.1958), appeal dismissed 28 N.J. 218, 146 A.2d 121.

Where Borough of Westwood adopted a resolution requesting county clerk to print upon official ballots to be used at the general election in the borough the question as a nonbinding referendum "Should any action be considered to effect a deconsolidation of the Consolidated School District of Westwood and Washington Township?" such question constituted a prohibited intrusion in school district affairs by a body which had no business in meddling with them except as Legislature has permitted, even if such question could be construed to mean whether any action should be undertaken or whether legislation should be sought to effect deconsolidation, since the borough governing body was not empowered to seek or take any such action in the field of school affairs. *Botkin v. Mayor and Borough Council of Borough of Westwood*, 52 N.J.Super. 416, 145 A.2d 618 (A.D.1958), appeal dismissed 28 N.J. 218, 146 A.2d 121.

4. Power of court

Statutory device for ascertaining voter sentiment is useful to those burdened with the duty of promoting the public welfare and the court should interfere only where a misuse is plain. *Gamrin v. Mayor and Council of City of Englewood*, 76 N.J.Super. 555, 185 A.2d 55 (L.1962).

Withholding of school aid is not sole remedy for failure of board to comply with statutory mandate to provide suitable school facilities, but action could be brought to compel board to erect senior high school in accordance with plan approved at referendum. *Durgin v. Brown*, 37 N.J. 189, 180 A.2d 136 (1962).

Trial court did not abuse its discretion in entertaining action to require school board to erect senior high school in accordance with plan approved at referendum without requiring exhaustion of administrative remedies through Commissioner of Education in view of need for prompt solution of problems and fact that court had received benefit of expertise of Commissioner. *Durgin v. Brown*, 37 N.J. 189, 180 A.2d 136 (1962).

Where proceedings were brought respecting validity of placing on ballot a nonbinding referendum proposed by bor-

ough under this section, and it was determined that such referendum should be removed from ballot and governing body of borough, being the sole party to proceedings in actual interest, resolved not to appeal, county clerk could not appeal in order to obtain a declaration for future guidance, since county clerk could not seek a judgment contrary to the wishes of the borough, and appeal would be dismissed. *Botkin v. Mayor and Borough Council of Borough of Westwood*, 28 N.J. 218, 146 A.2d 121 (1958).

5. Right to referendum

There is no constitutional right to a referendum, but only a statutory right where appropriate legislation exists. *Borough of Eatontown v. Danskin*, 121 N.J.Super. 68, 296 A.2d 81 (L.1972).

6. Election expenses

Where general election was held throughout county, and citizens of city, placed on ballots referendum questions whether members of city's police and fire departments should be given salary increases, and whether ordinance creating a housing authority in city should be adopted, there was a "special election" on referenda questions, and hence city was liable for fees of deputies appointed to serve at polls in city because of threatened fraud concerning referenda elections, rather than county, since fees were expenses in connection with "election held in and for a municipality only" within meaning of § 19:32-3 requiring such expenses to be paid by municipality. *Alliegro v. City of Bayonne*, 20 N.J. Misc. 354, 27 A.2d 652 (1942).

7. Ordinances

Village could properly hold a nonbinding referendum at general election on specific aspects of traffic ordinance. In re *Village of Ridgefield Park*, 149 N.J.Super. 530, 374 A.2d 83 (L.1977), affirmed 154 N.J.Super. 482, 381 A.2d 1217.

8. Matters subject to referenda

Referendum question proposed by county board of freeholders asking voters whether board should resolve to "urge" state legislature to repeal recently adopted tax increases and new school aid law could not be placed on ballot for submission to county's voters; county lacked authority to submit referendum to voters dealing with subject which did not

come within jurisdictional powers of county or municipality. *New Jersey State AFL-CIO v. Bergen County Bd. of Chosen Freeholders*, 121 N.J. 255, 579 A.2d 1231 (1990).

Local public questions may be asked only on matters over which local units have power, regardless of impact of state laws, so that counties lacked authority to place before voters referendum question concerning whether to take action against school aid legislation. *New Jersey State AFL-CIO v. Bergen County Bd. of Chosen Freeholders*, 121 N.J. 255, 579 A.2d 1231 (1990).

Referendum question in which county board of freeholders solicited voter advice on whether it should resolve to advise legislature to take certain actions regarding automobile insurance was not matter "pertaining to the government or internal affairs" of county and thus could not be included on general election ballot, notwithstanding county's expenditure of funds for insurance coverage, since subject was one that was statutorily committed to state government, and was not within jurisdiction of counties; county's budgetary interest in controlling its insurance costs was insufficient to sustain validity of referendum question. *Board of Chosen Freeholders of Mercer County v. Szaferman*, 117 N.J. 94, 563 A.2d 1132 (1989).

Referendum question proposed by county board of freeholders asking voters whether it should resolve to advise legislature regarding certain insurance issues, concerning matters which were not within its jurisdiction, did not become permissible by reason of county's adoption of county executive plan form of government. *Board of Chosen Freeholders of Mercer County v. Szaferman*, 117 N.J. 94, 563 A.2d 1132 (1989).

Supreme Court's directive establishing uniform budget procedures to be undertaken at county level by assignment judges and trial court administrators was independent judicial action affecting only matters within judicial sphere, and thus, matters covered by the directive were not matters "pertaining to the government or internal affairs" of the counties as would be subject to nonbinding referenda. *Camden County Bd. of Chosen Freeholders v. Keating*, 193 N.J.Super. 100, 472 A.2d 178 (L.1983), affirmed 193 N.J.Super. 111, 472 A.2d 184.

This section governing nonbinding county referenda limits questions which may be placed upon the ballot to those involving matters over which board of freeholders has jurisdiction. *Camden County Bd. of Chosen Freeholders v. Keating*, 193 N.J.Super. 100, 472 A.2d 178 (L.1983), affirmed 193 N.J.Super. 111, 472 A.2d 184.

County's proposed referendum question which suggested that the judiciary has no accountability to county taxpayers was not factually correct and was therefore misleading; it was required to be the opposite. *Camden County Bd. of Chosen Freeholders v. Keating*, 193 N.J.Super. 100, 472 A.2d 178 (L.1983), affirmed 193 N.J.Super. 111, 472 A.2d 184.

Referenda are not available to redress administrative acts. *Shapiro v. Essex County Bd. of Chosen Freeholders*, 177 N.J.Super. 87, 424 A.2d 1203 (L.1980), affirmed 183 N.J.Super. 24, 443 A.2d 219, certification granted 91 N.J. 194, 450 A.2d 529, affirmed 91 N.J. 430, 453 A.2d 158.

Legitimate statutory powers of township to act with respect to activities of municipal utilities authority generated sufficient question or policy pertaining to government or internal affairs to allow township committee to place referendum question relating to authority's proposed substantial acquisitions and expansion on the ballot. *Rowson v. Township Committee of Mantua Tp.*, 171 N.J.Super. 129, 408 A.2d 137 (A.D.1979).

Referendum questions must relate to action which the municipality has the authority to take, and if it has no power to act, it has no right to seek the voters' advice whether to do so. *Gamrin v. Mayor and Council of City of Englewood*, 76 N.J.Super. 555, 185 A.2d 55 (L.1962).

Municipality was entitled to seek voters' sentiment by placing on the official ballot for the coming general election the proposition whether the voters were in favor of transferring certain elementary school grades from their present schools into a single school for such grades as against contention that assignment of students was purely the responsibility of the board of education. *Gamrin v. Mayor and Council of City of Englewood*, 76 N.J.Super. 555, 185 A.2d 55 (L.1962).

Proposed non-binding referendum asking in effect whether voters were in favor

of spending a specified amount for conversion of existing school into a consolidated junior high school was invalid since it was not authorized under this section because § 18:6-63, authorizing submission of any bond issues for school construction to voters for their approval, was available by which sentiment of voters could be ascertained, and because referendum wording was an untrue and misleading statement of purport of published plan of Board of Education. Board of Ed. of City of Hackensack v. City of Hackensack, 63 N.J.Super. 560, 165 A.2d 33 (A.D.1960).

This section, providing for nonbinding municipal referenda to ascertain the sentiment of legal voters of a municipality upon any question or policy pertaining to the government or internal affairs thereof was not adopted by the Legislature to defeat the intent of legislation authorizing creation of sewerage authorities, and this section, therefore, did not authorize a referendum on question of installation of a sanitary sewer in a municipality which had created a sewerage authority. Santoro v. Mayor and Council of Borough of South Plainfield, 57 N.J.Super. 307, 154 A.2d 664 (L.1959), affirmed 57 N.J.Super. 498, 155 A.2d 23.

Local governing bodies were not authorized to place non-binding referenda regarding recent state tax reform measures and the level of state appropriations for government purposes on General Election ballot; such questions could not be properly included on the ballot because they did not deal specifically with any question or policy pertaining to the internal affairs of the governmental bodies proposing the resolutions and because the issues for which voters' sentiment were sought were not matters with respect to which the governmental bodies had power to take direct action. Atty. Gen.F.O. No. 2 (1990).

9. Filing

Statutory requirement that a county's referendum "shall be filed with the Clerk of the County not later than 60 days previous to the election" was mandatory, not

permissive. Camden County Bd. of Chosen Freeholders v. Keating, 193 N.J.Super. 100, 472 A.2d 178 (L.1983), affirmed 193 N.J.Super. 111, 472 A.2d 184.

Even if provision of this section that local governing body may seek local sentiment on an important issue by placing proposition on the ballot is directory, rather than mandatory and thus need not precede voter's petition, the time limits for requesting county clerk to place issue on ballot are mandatory. Borough of Eatontown v. Danskin, 121 N.J.Super. 68, 296 A.2d 81 (L.1972).

Where three of five council members voted against initiating nonbinding referendum seeking voter sentiment on whether zoning ordinance should be changed to allow second major regional shopping center and no valid resolution was transmitted to county clerk more than 60 days prior to election, there was no authority for council to act on voters' subsequent petition to place resolution on ballot; thus, resolution thereafter adopted by council and transmitted to clerk less than 60 days prior to election was invalid. Borough of Eatontown v. Danskin, 121 N.J.Super. 68, 296 A.2d 81 (L.1972).

10. Interpretive statement

County's interpretive statement accompanying county's proposed referendum question was defective inasmuch as it was an argument, not an explanation, and in that it merely repeated, for the most part, the language of the question. Camden County Bd. of Chosen Freeholders v. Keating, 193 N.J.Super. 100, 472 A.2d 178 (L.1983), affirmed 193 N.J.Super. 111, 472 A.2d 184.

11. Voting

Borough's survey of homeowners regarding condemnation issue, which allowed one vote per address, rather than one vote per person, did not comply with statutorily authorized procedure for determining voter sentiment on important municipal issues and policies. Borough of Essex Fells v. Kessler Institute for Rehabilitation, Inc., 289 N.J.Super. 329, 673 A.2d 856 (L.1995).

19:37-1.1. Request by voters; petition

Whenever a governing body of a municipality has adopted an ordinance or resolution pursuant to section 19:37-1 of the Revised

Statutes, upon the presentation to the governing body of such municipality of a petition signed by 10% or more of the voters registered and qualified to vote at the last general election in such municipality, requesting the governing body of such municipality to ascertain the sentiment of the legal voters of the municipality upon any question or policy pertaining to the government or internal affairs thereof that is reasonably related to any proposition formulated and expressed in such ordinance or resolution, such governing body of the municipality shall thereupon adopt at its next regular meeting following the presentation of such petition a resolution requesting the clerk of the county to print upon the official ballots to be used at the next ensuing general election a certain proposition as formulated and expressed in the petition. Such request shall be filed with the clerk of the county not later than the 60th day previous to the election.

L.1967, c. 101, § 2, eff. June 12, 1967. Amended by L.1985, c. 92, § 30, eff. March 26, 1985.

Historical and Statutory Notes

Effective date and application of L.1985, c. 92, see Historical Note under § 18A:9-10.

Statement: Committee statement to Senate, No. 2244-L.1985, c. 92, see § 18A:9-10.

Library References

Municipal Corporations ¶108.10.
WESTLAW Topic No. 268.

C.J.S. Municipal Corporations § 455 et seq.

Forms

9A Am Jur Legal Forms 2d, Initiative and Referendum § 146:4.

Texts and Treatises

42 Am Jur 2d, Initiative and Referendum §22 et seq.

United States Supreme Court

Freedom of speech, payment of petition circulators, see Meyer v. Grant, 1988, 108

S.Ct. 1886, 486 U.S. 414, 100 L.Ed.2d 425.

Notes of Decisions

Procedure to place on ballot 1

1. Procedure to place on ballot

Proper procedure for placing on ballot a referendum measure seeking to ascertain voter sentiment on local issues re-

quires, first, that the governing body adopt a resolution or ordinance requesting the county clerk to place the proposition on the ballot and transmit such request to the clerk more than 60 days before election and, second, only thereafter may a petition be presented by registered and qualified voters requesting the

governing body to put the proposition to the voters and, third, the governing body must adopt a resolution at its next regular meeting requesting the clerk to print proposition on the ballot and must file such request with clerk at least 30 days prior to election. *Borough of Eatontown v. Danskin*, 121 N.J.Super. 68, 296 A.2d 81 (L.1972).

Where three of five council members voted against initiating nonbinding referendum seeking voter sentiment on wheth-

er zoning ordinance should be changed to allow second major regional shopping center and no valid resolution was transmitted to county clerk more than 60 days prior to election, there was no authority for council to act on voters' subsequent petition to place resolution on ballot; thus resolution thereafter adopted by council and transmitted to clerk less than 60 days prior to election was invalid. *Borough of Eatontown v. Danskin*, 121 N.J.Super. 68, 296 A.2d 81 (L.1972).

19:37-2. Question placed on ballot by county clerk

If a copy of the ordinance or resolution certified by the clerk or secretary of the governing body of any such municipality or county is delivered to the county clerk not less than 60 days before any such general election, he shall cause it to be printed on each sample ballot and official ballot to be printed for or used in such municipality or county, as the case may be, at the next ensuing general election. Amended by L.1947, c. 69, p. 428, § 1; L.1971, c. 217, § 3, eff. June 17, 1971.

Historical and Statutory Notes

Source: L.1930, c. 187, ¶518, p. 916.

Library References

Texts and Treatises

26 Am Jur 2d, Elections § 221.

Notes of Decisions

Remedies 2

Time of delivery 1

1. Time of delivery

Where three of five council members voted against initiating nonbinding referendum seeking voter sentiment on whether zoning ordinance should be changed to allow second major regional shopping center and no valid resolution was transmitted to county clerk more than 60 days prior to election, there was no authority for council to act on voters' subsequent petition to place resolution on ballot; thus, resolution thereafter adopted by council and transmitted to clerk less than 60 days prior to election was invalid. *Borough of Eatontown v. Danskin*, 121 N.J.Super. 68, 296 A.2d 81 (L.1972).

2. Remedies

Where borough adopted a resolution requesting county clerk to print upon official ballots to be used at general election a question as a nonbinding referendum whether any action should be considered to effect a deconsolidation of consolidated school district, since question involved was the fundamental power of municipal governing body in calling for the referendum, taxpayer's proper remedy was that adopted, namely, a complaint in lieu of prerogative writ to review the resolution and to set it aside as illegal and to direct the county clerk to remove the question from the ballot. *Botkin v. Mayor and Borough Council of Borough of Westwood*, 52 N.J.Super. 416, 145 A.2d 618 (A.D.1958), appeal dismissed 28 N.J. 218, 146 A.2d 121.

19:37-3. Count and canvass of votes

The ballots so cast for or against such public question shall be counted and the result thereof returned by the election officers and a canvass of such election had and announced in the manner now provided by law.

Historical and Statutory Notes

Source: L.1930, c. 187, §519, p. 916.

Library References**Texts and Treatises**

26 Am Jur 2d, Elections §291 et seq.

19:37-4. Result not binding

Such result shall not bind the governing body from which the ordinance or resolution emanated, nor be taken or construed as other than an expression of sentiment by the voters, to be followed or disregarded by the governing body in its discretion.

Historical and Statutory Notes

Source: L.1930, c. 187, §520, p. 917.

Library References**Texts and Treatises**

26 Am Jur 2d, Elections § 305.

19:37-5. Ordinance or resolution necessary

The submission of a public question in the manner herein provided shall not become operative in any municipality or county until the governing body thereof shall by ordinance or resolution duly passed declare its desire to submit any question or questions in this manner.

Historical and Statutory Notes

Source: L.1930, c. 187, §521, p. 917.

SUBTITLE 11
**FIRST ELECTIONS IN CONSOLIDATED
MUNICIPALITIES [REPEALED]**

CHAPTER 38

PROCEDURE

**19:38-1 to 19:38-6. Repealed by L.1939, c. 343, § 39; L.1977,
c. 435, § 48, eff. March 1, 1978**

Historical and Statutory Notes

The repealed sections were amended by L.1939, c. 343, §§ 22 to 26, derived from L.1939, c. 187, §§ 522 to 527, pp. 917, 918, related to the election of the first set

of officers and officials in a municipality formed by the consolidation of two or more municipalities.

See, now, § 40:43-66.63.

SUBTITLE 12

CAMPAIGN EXPENDITURES [REPEALED]

CHAPTER 39

LIMITATION OF EXPENDITURES

19:39-1, 19:39-2. Repealed by L.1969, c. 192, § 2, eff. Nov. 25, 1969

Historical and Statutory Notes

The repealed sections were derived from L.1930, c. 187, §§ 528, 529, p. 919, and prohibited the expenditure of funds, other than travel expenses, in the aid of a candidacy beyond limits set forth in a schedule for each office.

Section 2 of L.1969, c. 192, provided: "Sections 19:39-1 and 19:39-2 are here-

by repealed, and no action shall be brought or penalty enforced for the violation of sections 19:39-1 and 19:39-2 of the Revised Statutes by any expenditures made heretofore or hereafter by any candidate or by any person in aid of any candidate."

See, now, § 19:44A-1 et seq.

CHAPTER 40

CAMPAIGN MANAGERS

19:40-1 to 19:40-4. Repealed by L.1973, c. 83, § 26, eff. April 24, 1973

Historical and Statutory Notes

The repealed sections were derived from L.1930, c. 187, §§ 530 to 533, pp. 920 to 922, amended by L.1931, c. 148, § 1, p. 277, related to campaign managers for candidates for any public office.

See, now, § 19:44A-1 et seq.

CHAPTER 41

CAMPAIGN CONTRIBUTIONS

19:41-1 to 19:41-4.2. Repealed by L.1973, c. 83, § 26, eff. April 24, 1973

Historical and Statutory Notes

Sections 19:41-1 to 19:41-4 were derived from L.1930, c. 187, §§ 534 to 537, pp. 922 to 924, required all contributions

for a candidate be made after the primary election and at least five days prior to the election and be deposited in a bank or

CAMPAIGN FUNDS

**19:44-1 to 19:44-6
Repealed**

trust company, required solicitations for contributions be made after the primary election, and allowed a committee of a political party to accept contributions after the primary election.

See, now, § 19:44A-1 et seq.

CHAPTER 42

PROVISIONS GOVERNING EXPENDITURES

19:42-1 to 19:42-5. Repealed by L.1973, c. 83, § 26, eff. April 24, 1973

Historical and Statutory Notes

The repealed sections were derived from L.1930, c. 187, §§ 538 to 542, pp. 924 to 927, and restricted expenditures for campaigns of candidates to the

amounts on deposit, required written authorization for the expenditure of funds and placed restrictions on time of expenditures.

CHAPTER 43

AUDIT AND PAYMENT OF BILLS

19:43-1 to 19:43-3. Repealed by L.1973, c. 83, § 26, eff. April 24, 1973

Historical and Statutory Notes

The repealed sections were derived from L.1930, c. 187, §§ 543 to 545, p. 927, and related to the audit and payment of bills of a candidate.

See, now, § 19:44A-1 et seq.

CHAPTER 44

STATEMENTS CONCERNING CAMPAIGN FUNDS

19:44-1 to 19:44-6. Repealed by L.1973, c. 83, § 26, eff. April 24, 1973

Historical and Statutory Notes

The repealed sections, amended by L.1953, c. 19, p. 354, § 57, and derived from L.1930, c. 187, §§ 546 to 551, pp. 928 to 935, related to statements concerning campaign funds.

See, now, § 19:44A-1 et seq.

SUBTITLE 12A

CAMPAIGN CONTRIBUTIONS AND EXPENDITURES

Chapter

44A. Campaign Contributions and Expenditures Reporting Act.

CHAPTER 44A

CAMPAIGN CONTRIBUTIONS AND EXPENDITURES REPORTING ACT

I. GENERAL PROVISIONS

Section

- 19:44A-1. Short title.
- 19:44A-2. Public policy.
- 19:44A-3. Definitions.
- 19:44A-4. Application of act.
- 19:44A-5. Election law enforcement commission; creation; members; appointment; qualifications; term of office; compensation; allocation to department of law and public safety; independence.
- 19:44A-6. Executive director; employees; commission; duties; powers; distribution of information; void elections; law applicable; quarters; advisory opinions.
- 19:44A-7. Limitation on amount spent in aid of candidate for Governor.
- 19:44A-7.1. Adequacy of limits of amounts; adjustments for each gubernatorial election; report; notice to candidates.
- 19:44A-7.2. Adjustment of limits on amount of contributions allowable for offices other than governor; amounts subject to adjustment.
- 19:44A-8. Political committees and continuing political committees; reports; certification; notices; filing; exemptions.
- 19:44A-8.1. Submission of statement of registration by committees; contents.
- 19:44A-9. Candidates in elections; campaign treasurer and campaign depository; appointment; deputies; candidates required to wind up associations with political committees.
- 19:44A-10. Political committees; organizational treasurer and organizational depository.
- 19:44A-10.1. Establishment of legislative leadership committee; appointment of committee members; adoption of bylaws.
- 19:44A-11. Contributions, loans or obligations and expenditures in support of or to defeat candidate or public question; method; personal expenditures; report; anonymous contribution; disposition.
- 19:44A-11.1. Funds or benefits received and payments to determine if individual should become candidate.

CONTRIBUTIONS AND EXPENDITURES

Section

- 19:44A-11.2. Limitations on use of contributions received by a candidate, candidate committee, joint candidate committee or a legislative leadership committee.
- 19:44A-11.3. Contributions to candidates; limitations.
- 19:44A-11.4. Contributions to political party and leadership committee; limitations.
- 19:44A-11.5. Contributions to political committee and continuing political committee; limitations.
- 19:44A-11.6. Loans for contributions; limitations.
- 19:44A-11.7. Campaign-related payments required to be made by check.
- 19:44A-12. Funds received by treasurer; record; deposit; transfers.
- 19:44A-13 to 19:44A-15. Repealed.
- 19:44A-16. Campaign treasurer; reports.
- 19:44A-17. Repealed.
- 19:44A-18. Post-election contributions, expenditures, testimonial affairs or public solicitations; reports.
- 19:44A-18.1. Contributions for gubernatorial inaugural fund-raising event; limitations; report.
- 19:44A-19. Public solicitations; reports.
- 19:44A-20. Contributions or expenditures in fictitious name, in name of another or anonymously; solicitation, acceptance or donation; prohibition.
- 19:44A-20.1. Corporations and labor organizations prohibited from making contribution through employees; penalties.
- 19:44A-21. Concealment or misrepresentation of contributions or expenditures; reports; violations; penalties.
- 19:44A-22. Reports, records, notices, etc.; violations; additional penalty; hearing; determination; penalties for illegal contributions.
- 19:44A-22.1. Summary action by candidate; injunctive relief; costs and attorney fees.
- 19:44A-22.2. Legislative findings and declaration.
- 19:44A-22.3. Campaign advertisements; identification of issuer; disclosure of campaign financing; violations; penalties.
- 19:44A-23. Construction of act.
- 19:44A-24. Supersedure of inconsistent acts.
- 19:44A-25. Severability.
- 19:44A-26. Repeals.

II. GUBERNATORIAL ELECTIONS

- 19:44A-27. Public policy.
- 19:44A-28. Application of act.
- 19:44A-29. Contributions; limit of \$1,500; political committees; limitations; report; contributions of own funds.
- 19:44A-30. Appropriations for fund for election campaign expenses.
- 19:44A-31. Repealed.
- 19:44A-32. Primary and general election bank accounts of candidates; deposits; expenditures; nonliability of banks.
- 19:44A-33. Payment from fund for primary or general election campaign expenses; amounts.
- 19:44A-34. Separate bank accounts for other funds; disposition of contributions of political committees.
- 19:44A-35. Expenditures from fund for election campaign expenses; rules and regulations; purposes; return of unexpended funds.

Section

- 19:44A-36. Moneys from fund as "spent in aid of the candidacy of any candidate"; limitations on withdrawal from fund.
- 19:44A-37. Statements from gubernatorial candidates; printing and mailing with sample ballot.
- 19:44A-38. Rules and regulations.
- 19:44A-39. Public broadcasting authority; appearances of candidates.
- 19:44A-40. Violations; misdemeanor; forfeiture of office.
- 19:44A-41. Violations; fines; hearings; assessment of penalty.
- 19:44A-42. Liberal construction of act.
- 19:44A-43. Severability.
- 19:44A-44. Borrowing by candidate; limitation; repayment; certification; failure to repay or certify; stoppage of payments from fund.
- 19:44A-45. Interactive gubernatorial primary and general election debates; participation by qualified candidates.
- 19:44A-46. Time and contents; sponsors.
- 19:44A-47. Failure of candidate to participate in debates; complaint; hearing; determination; penalties.

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I. GENERAL PROVISIONS

Law Review and Journal Commentaries

Legislative ethics in New Jersey. Betty Wilson (1975) 1 Seton Hall Legis. J. 39.

reform? Donald Scarinci, 18 Seton Hall Legis.J. 161 (1993).

New Jersey Campaign Contributions and Expenditures Reporting Act: Is it

On public corruption. William F. Hyland (1975) 98 N.J.L.J. 977.

Library References

Elections ⇨ 317.1 et seq.

WESTLAW Topic No. 144.

C.J.S. Elections § 329.

Comments

Campaign contribution and expenditures reporting, see 35 New Jersey Practice, Pane, § 480.

19:44A-1. Short title

This act shall be known and may be cited as "The New Jersey Campaign Contributions and Expenditures Reporting Act."

L.1973, c. 83, § 1, eff. April 24, 1973.

Historical and Statutory Notes**Title of Act:**

An Act concerning the reporting of campaign contributions and expenditures, limiting election campaign expenditures, establishing an Election Law Enforcement Commission and prescribing

its powers and duties, making an appropriation therefor, amending R.S. 19:5-5 and repealing R.S. 19:3-8, 19:34-36 and 19:34-37, chapters 40, 41, 42, 43 and 44 of Title 19 of the Revised Statutes and chapter 152 of the laws of 1946. L.1973, c. 83.

Administrative Code References

Election law enforcement commission, rules and regulations, see N.J.A.C. 19:25-1.1 et seq.

Law Review and Journal Commentaries

Regulation of campaign finance activity in New Jersey. Scott A. Weiner, 9 Seton Hall Legis.J. 491 (1986).

Notes of Decisions**Validity 1****1. Validity**

Plaintiffs, various lobbyists, trade associations and special interest groups and certain individuals who had all attempted to influence course of legislation and who alleged their intention to do so in the future, had standing to challenge constitutionality of Campaign Contributions and Expenditures Reporting Act on First Amendment grounds. New Jersey State Chamber of Commerce v. New Jersey Election Law Enforcement Commission, 82 N.J. 57, 411 A.2d 168 (1980).

Although judgment of the trial court invalidated provisions of Campaign Contributions and Expenditures Reporting Act as to "political committees" as well as to political information organizations, holding as to the former was not sought nor defended on appeal and thus, in light

of limited issues litigated, inclusion of political committees in determination was improper and would be set aside. New Jersey State Chamber of Commerce v. New Jersey Election Law Enforcement Commission, 155 N.J.Super. 218, 382 A.2d 670 (A.D.1977), affirmed and modified on other grounds 82 N.J. 57, 411 A.2d 168.

Campaign and Expenditures Reporting Act which is designed to identify sources and recipients of funds aimed at affecting outcome of elections, public questions and legislative process necessarily involves incidental effect and burden upon freedom of political expression. New Jersey State Chamber of Commerce v. New Jersey Election Law Enforcement Commission, 135 N.J.Super. 537, 343 A.2d 796 (Ch.1975), reversed on other grounds 155 N.J.Super. 218, 382 A.2d 670, affirmed and modified on other grounds 82 N.J. 57, 411 A.2d 168.

Note 1

Groups which claimed great inconvenience with having to meet disclosure and reporting requirements of Campaign Contributions and Expenditures Reporting Act but which did not claim to have been "chilled" or silenced to any noticeable degree by complying with such requirements had standing to bring action challenging constitutionality of Act as being violative of First Amendment rights. *New Jersey State Chamber of Commerce v. New Jersey Election Law Enforcement Commission*, 135 N.J.Super. 537, 343

A.2d 796 (Ch.1975), reversed on other grounds 155 N.J.Super. 218, 382 A.2d 670, affirmed and modified on other grounds 82 N.J. 57, 411 A.2d 168.

The disclosure and reporting requirements of the New Jersey Campaign Contributions and Expenditures Reporting Act of 1973 imposed upon those who influence or affect the electoral process serve a valid governmental interest consistent with the demands of the First Amendment. *Atty.Gen.F.O.1976, No. 10.*

19:44A-2. Public policy

It is hereby declared to be in the public interest and to be the policy of the State to limit political contributions and to require the reporting of all contributions received and expenditures made to aid or promote the nomination, election or defeat of any candidate for public office or to aid or promote the passage or defeat of a public question in any election and to require the reporting of all contributions received and expenditures made to provide political information on any candidate for public office, or on any public question. L.1973, c. 83, § 2, eff. April 24, 1973. Amended by L.1981, c. 151, § 1, eff. May 22, 1981; L.1993, c. 65, § 1.

Historical and Statutory Notes

L.1993, c. 65, § 27, approved Mar. 8, 1993, provided:

"This act shall take effect on the 30th day following enactment [Apr. 7, 1993], but amounts of contributions paid or made, or accepted, on or after January 1 of the year in which such enactment occurs and prior to that effective date by any person to whom the provisions of sections 18, 19, or 20 [§§ 19:44A-11.3,

19:44A-11.4 or 19:44A-11.5] apply shall not be considered in determining the application of those sections on and after that effective date."

Section 7 of L.1981, c. 151, approved May 22, 1981, provides:

"This act shall take effect when Senate Bill No. 1396 of 1980 [L.1981, c. 150, approved and effective May 22, 1981] is enacted into law."

Notes of Decisions**Gifts 3****Litigation expenses 2****Purpose 1****Violations 4****1. Purpose**

Objective of the Campaign and Expenditures Reporting Act is to identify and attempt to regulate significant flow of substantial wealth aimed at affecting the outcome of elections, public questions and legislative process. *New Jersey State*

Chamber of Commerce v. New Jersey Election Law Enforcement Commission, 135 N.J.Super. 537, 343 A.2d 796 (Ch. 1975), reversed on other grounds 155 N.J.Super. 218, 382 A.2d 670, affirmed and modified on other grounds 82 N.J. 57, 411 A.2d 168.

The legislative goal in enacting the Campaign Contribution and Expenditure Reporting Act was to ventilate the political process by identifying and monitoring the source and flow of money intended to influence the electoral process, and the object of the restrictions on campaign

contributions was to level the playing field, not bar citizens from making such donations. *Markwardt v. New Beginnings*, 304 N.J.Super. 522, 701 A.2d 706 (A.D.1997).

The Campaign Contribution and Expenditure Reporting Act bars a business or individual from entering into an agreement that requires, as one of its essential terms, that the donor's contribution will be funneled by donee continuing political committee to a predetermined recipient. *Markwardt v. New Beginnings*, 304 N.J.Super. 522, 701 A.2d 706 (A.D.1997).

2. Litigation expenses

Former mayor was not entitled to reimbursement of legal expenses he incurred in his successful defense of three lawsuits which challenged his entitlement to hold office and the regularity of his election. *Matthews v. City of Atlantic City*, 196 N.J.Super. 338, 482 A.2d 530 (A.D.1984),

certification denied 99 N.J. 213, 491 A.2d 708.

3. Gifts

New Jersey election laws do not prohibit candidates for public office from receiving and not reporting gifts given to them for their personal use. *U.S. v. D'Allesio*, D.N.J.1993, 822 F.Supp. 1134.

4. Violations

Agreement, in violation of the Campaign Contribution and Expenditure Reporting Act, that donor's contribution will be funneled by donee continuing political committee to a predetermined recipient may be proved by circumstantial evidence alone, and evidence need not lead to a certainty, but violation must be shown by clear and convincing evidence. *Markwardt v. New Beginnings*, 304 N.J.Super. 522, 701 A.2d 706 (A.D.1997).

19:44A-3. Definitions

As used in this act, unless a different meaning clearly appears from the context:

- a. (Deleted by amendment, P.L.1993, c. 65.)
- b. (Deleted by amendment, P.L.1993, c. 65.)
- c. The term "candidate" means: (1) an individual seeking election to a public office of the State or of a county, municipality or school district at an election; except that the term shall not include an individual seeking party office; and (2) an individual who shall have been elected or failed of election to an office, other than a party office, for which he sought election and who receives contributions and makes expenditures for any of the purposes authorized by section 17 of P.L.1993, c. 65 (C. 19:44A-11.2) during the period of his service in that office.
- d. The terms "contributions" and "expenditures" include all loans and transfers of money or other thing of value to or by any candidate, candidate committee, joint candidates committee, political committee, continuing political committee, political party committee or legislative leadership committee and all pledges or other commitments or assumptions of liability to make any such transfer; and for purposes of reports required under the provisions of this act shall be deemed to have been made upon the date when such commitment is made or liability assumed.
- e. The term "election" means any election described in section 4 of this act.¹

f. The term "paid personal services" means personal, clerical, administrative or professional services of every kind and nature including, without limitation, public relations, research, legal, canvassing, telephone, speech writing or other such services, performed other than on a voluntary basis, the salary, cost or consideration for which is paid, borne or provided by someone other than the committee, candidate or organization for whom such services are rendered. In determining the value, for the purpose of reports required under this act, of contributions made in the form of paid personal services, the person contributing such services shall furnish to the treasurer through whom such contribution is made a statement setting forth the actual amount of compensation paid by said contributor to the individuals actually performing said services for the performance thereof. But if any individual or individuals actually performing such services also performed for the contributor other services during the same period, and the manner of payment was such that payment for the services contributed cannot readily be segregated from contemporary payment for the other services, the contributor shall in his statement to the treasurer so state and shall either (1) set forth his best estimate of the dollar amount of payment to each such individual which is attributable to the contribution of his paid personal services, and shall certify the substantial accuracy of the same, or (2) if unable to determine such amount with sufficient accuracy, set forth the total compensation paid by him to each such individual for the period of time during which the services contributed by him were performed. If any candidate is a holder of public office to whom there is attached or assigned, by virtue of said office, any aide or aides whose services are of a personal or confidential nature in assisting him to carry out the duties of said office, and whose salary or other compensation is paid in whole or part out of public funds, the services of such aide or aides which are paid for out of public funds shall be for public purposes only; but they may contribute their personal services, on a voluntary basis, to such candidate for election campaign purposes.

g. (Deleted by amendment, P.L.1983, c. 579.)

h. The term "political information" means any statement including, but not limited to, press releases, pamphlets, newsletters, advertisements, flyers, form letters, or radio or television programs or advertisements which reflects the opinion of the members of the organization on any candidate or candidates for public office, on any public question, or which contains facts on any such candidate, or public question whether or not such facts are within the personal knowledge of members of the organization.

i. The term "political committee" means any two or more persons acting jointly, or any corporation, partnership, or any other incorporated or unincorporated association which is organized to, or does, aid or promote the nomination, election or defeat of any candidate or candidates for public office, or which is organized to, or does, aid or promote the passage or defeat of a public question in any election, if the persons, corporation, partnership or incorporated or unincorporated association raises or expends \$1,000.00 or more to so aid or promote the nomination, election or defeat of a candidate or candidates or the passage or defeat of a public question; provided that for the purposes of this act, the term "political committee" shall not include a "continuing political committee," as defined by subsection n. of this section, a "political party committee," as defined by subsection p. of this section, a "candidate committee," as defined by subsection q. of this section, a "joint candidates committee," as defined by subsection r. of this section or a "legislative leadership committee," as defined by subsection s. of this section.

j. The term "public solicitation" means any activity by or on behalf of any candidate, political committee, continuing political committee, candidate committee, joint candidates committee, legislative leadership committee or political party committee whereby either (1) members of the general public are personally solicited for cash contributions not exceeding \$20.00 from each person so solicited and contributed on the spot by the person so solicited to a person soliciting or through a receptacle provided for the purpose of depositing contributions, or (2) members of the general public are personally solicited for the purchase of items having some tangible value as merchandise, at a price not exceeding \$20.00 per item, which price is paid on the spot in cash by the person so solicited to the person so soliciting, when the net proceeds of such solicitation are to be used by or on behalf of such candidate, political committee, continuing political committee, candidate committee, joint candidates committee, legislative leadership committee or political party committee.

k. The term "testimonial affair" means an affair of any kind or nature including, without limitation, cocktail parties, breakfasts, luncheons, dinners, dances, picnics or similar affairs directly or indirectly intended to raise campaign funds in behalf of a person who holds, or who is or was a candidate for nomination or election to a public office in this State, or directly or indirectly intended to raise funds in behalf of any political party committee or in behalf of a political committee, continuing political committee, candidate committee, joint candidates committee or legislative leadership committee.

l. The term "other thing of value" means any item of real or personal property, tangible or intangible, but shall not be deemed to include personal services other than paid personal services.

m. The term "qualified candidate" means:

(1) Any candidate for election to the office of Governor whose name appears on the general election ballot; who has deposited and expended \$150,000.00 pursuant to section 7 of P.L.1974, c. 26 (C. 19:44A-32); and who, not later than September 1 preceding a general election in which the office of Governor is to be filled, (a) notifies the Election Law Enforcement Commission in writing that the candidate intends that application will be made on the candidate's behalf for monies for general election campaign expenses under subsection b. of section 8 of P.L.1974, c. 26 (C. 19:44A-33), and (b) signs a statement of agreement, in a form to be prescribed by the commission, to participate in two interactive gubernatorial election debates under the provisions of sections 9 through 11 of P.L. 1989, c. 4 (C. 19:44A-45 through C. 19:44A-47); or

(2) Any candidate for election to the office of Governor whose name does not appear on the general election ballot; who has deposited and expended \$150,000.00 pursuant to section 7 of P.L. 1974, c. 26 (C. 19:44A-32); and who, not later than September 1 preceding a general election in which the office of Governor is to be filled, (a) notifies the Election Law Enforcement Commission in writing that the candidate intends that application will be made on the candidate's behalf for monies for general election campaign expenses under subsection b. of section 8 of P.L.1974, c. 26 (C. 19:44A-33), and (b) signs a statement of agreement, in a form to be prescribed by the commission, to participate in two interactive gubernatorial election debates under the provisions of sections 9 through 11 of P.L.1989, c. 4 (C. 19:44A-45 through C. 19:44A-47); or

(3) Any candidate for nomination for election to the office of Governor whose name appears on the primary election ballot; who has deposited and expended \$150,000.00 pursuant to section 7 of P.L.1974, c. 26 (C. 19:44A-32); and who, not later than the last day for filing petitions to nominate candidates to be voted upon in a primary election for a general election in which the office of Governor is to be filled, (a) notifies the Election Law Enforcement Commission in writing that the candidate intends that application will be made on the candidate's behalf for monies for primary election campaign expenses under subsection a. of section 8 of P.L.1974, c. 26 (C. 19:44A-33), and (b) signs a statement of agreement, in a form to be prescribed by the commission, to participate in two interactive gubernatorial primary debates under the provisions of sections 9

through 11 of P.L.1989, c. 4 (C. 19:44A-45 through C. 19:44A-47); or

(4) Any candidate for nomination for election to the office of Governor whose name does not appear on the primary election ballot; who has deposited and expended \$150,000.00 pursuant to section 7 of P.L.1974, c. 26 (C. 19:44A-32); and who, not later than the last day for filing petitions to nominate candidates to be voted upon in a primary election for a general election in which the office of Governor is to be filled, (a) notifies the Election Law Enforcement Commission in writing that the candidate intends that application will be made on the candidate's behalf for monies for primary election campaign expenses under subsection a. of section 8 of P.L.1974, c. 26 (C. 19:44A-33), and (b) signs a statement of agreement, in a form to be prescribed by the commission, to participate in two interactive gubernatorial primary debates under the provisions of sections 9 through 11 of P.L.1989, c. 4 (C. 19:44A-45 through C. 19:44A-47).

n. The term "continuing political committee" means any group of two or more persons acting jointly, or any corporation, partnership, or any other incorporated or unincorporated association, including a political club, political action committee, civic association or other organization, which in any calendar year contributes or expects to contribute at least \$2,500.00 to the aid or promotion of the candidacy of an individual, or of the candidacies of individuals, for elective public office, or the passage or defeat of a public question or public questions, and which may be expected to make contributions toward such aid or promotion or passage or defeat during a subsequent election, provided that the group, corporation, partnership, association or other organization has been determined to be a continuing political committee under subsection b. of section 8 of P.L.1973, c. 83 (C. 19:44A-8); provided that for the purposes of this act, the term "continuing political committee" shall not include a "political party committee," as defined by subsection p. of this section, or a "legislative leadership committee," as defined by subsection s. of this section.

o. The term "statement of agreement" means a written declaration, by a candidate for nomination for election or for election to the office of Governor who intends that application will be made on that candidate's behalf to receive monies for primary election or general election campaign expenses under subsection a. or subsection b., respectively, of section 8 of P.L.1974, c. 26 (C. 19:44A-33), that the candidate undertakes to abide by the terms of any rules established by any private organization sponsoring a gubernatorial primary or general election debate, as appropriate, to be held under the provi-

sions of sections 9 through 11 of P.L.1989, c. 4 (C. 19:44A-45 through C. 19:44A-47) and in which the candidate is to participate. The statement of agreement shall include an acknowledgment of notice to the candidate who signs it that failure on that candidate's part to participate in any of the gubernatorial debates may be cause for the termination of the payment of such monies on the candidate's behalf and for the imposition of liability for the return to the commission of such monies as may previously have been so paid.

p. The term "political party committee" means the State committee of a political party, as organized pursuant to R.S. 19:5-4, any county committee of a political party, as organized pursuant to R.S. 19:5-3, or any municipal committee of a political party, as organized pursuant to R.S. 19:5-2.

q. The term "candidate committee" means a committee established pursuant to subsection a. of section 9 of P.L.1973, c. 83 (C. 19:44A-9) for the purpose of receiving contributions and making expenditures.

r. The term "joint candidates committee" means a committee established pursuant to subsection a. of section 9 of P.L.1973, c. 83 (C. 19:44A-9) by at least two candidates for the same elective public offices in the same election in a legislative district, county, municipality or school district, but not more candidates than the total number of the same elective public offices to be filled in that election, for the purpose of receiving contributions and making expenditures. For the purpose of this subsection: the offices of member of the Senate and members of the General Assembly shall be deemed to be the same elective public offices in a legislative district; the offices of member of the board of chosen freeholders and county executive shall be deemed to be the same elective public offices in a county; and the offices of mayor and member of the municipal governing body shall be deemed to be the same elective public offices in a municipality.

s. The term "legislative leadership committee" means a committee established, authorized to be established, or designated by the President of the Senate, the Minority Leader of the Senate, the Speaker of the General Assembly or the Minority Leader of the General Assembly pursuant to section 16 of P.L.1993, c. 65 (C. 19:44A-10.1) for the purpose of receiving contributions and making expenditures.

L.1973, c. 83, § 3, eff. April 24, 1973. Amended by L.1974, c. 26, § 1, eff. May 6, 1974; L.1980, c. 74, § 1, eff. July 23, 1980; L.1981, c. 151, § 2, eff. May 22, 1981; L.1981, c. 511, § 12, eff. Jan. 12, 1982; L.1983, c. 579, § 7, eff. Jan. 17, 1984; L.1989, c. 4, § 1; L.1993, c. 65, § 2; L.1995, c. 194, § 1, eff. Aug. 2, 1995.

¹ N.J.S.A. § 19:44A-4.

**Senate State Government, Federal and Interstate Relations
and Veterans Affairs Committee Statement**

Senate, No. 1176—L.1980, c. 74

This bill would extend the public financing of gubernatorial election campaigns to the primary-election phase of such campaigns. It sets the expenditure limits on candidates who participate in such public funding for the primary at 35 cents for each voter who voted in the last preceding general election in a presidential year, and raises the general-election limit to 70 cents for each such voter (formerly 50 cents). The section of the law regarding such limits (section 7 of P.L.1973, c. 83; C. 19:44A-7) is further amended to recognize the U.S. Supreme Court's determination that they are constitutional only when imposed as a condition of public financing—that is to say, in New Jersey, only in gubernatorial elections. A further limit is imposed on the amount of his own funds that a gubernatorial candidate who participates in public funding may spend on any election: \$25,000.00.

* * * * *

Historical and Statutory Notes

L.1993, c. 65, § 27, approved Mar. 8, 1993, provides:

"This act shall take effect on the 30th day following enactment [April 7, 1993], but amounts of contributions paid or made, or accepted, on or after January 1 of the year in which such enactment occurs and prior to that effective date by any person to whom the provisions of sections 18, 19, or 20 [§§ 19:44A-11.3, 19:44A-11.4 or 19:44A-11.5] apply shall not be considered in determining the application of those sections on and after that effective date."

Section 26 of L.1983, c. 579, approved Jan. 17, 1984, provides:

"Notwithstanding the provisions of this amendatory and supplementary act: (1) a State committee, county committee or municipal committee of a political party shall, prior to March 2, 1984, continue to have all of the obligations, under the provisions of P.L.1973, c. 83 (C. 19:44A-1 et seq.), which were applicable to that committee as those provisions existed on June 20, 1983; and (2) no group, corporation, partnership, association or other organization shall, prior to March 2, 1984, constitute a "continuing political committee" within the meaning of paragraph (2) of subsection n. of section 3 of P.L.1973, c. 83 (C. 19:44A-3), and prior to that date,

any group, corporation, partnership, association or other organization having or coming to have any obligation under the provisions of P.L.1973, c. 83 (C. 19:44A-1 et seq.) shall continue to have or come to have all of the obligations under those provisions existing on June 20, 1983."

Sections 12 to 14 of L.1989, c. 4, approved Jan. 21, 1989 provide:

"12. a. The Election Law Enforcement Commission is hereby empowered and directed to adopt summarily and to publish any rule, and to take any administrative action whatsoever, necessary to effectuate the purposes of this 1989 amendatory and supplementary act in a timely manner. This adoption and publication of rules shall, to the extent feasible, be subject to the provisions of the 'Administrative Procedure Act,' P.L.1968, c. 410 (C.52:14B-1 et seq.), provided that the commission shall be excused from strict compliance with any requirement under that act if and to the extent that it determines, in the reasonable exercise of its discretion, that the public interest in the timely implementation of the provisions of this 1989 amendatory and supplementary act so requires. For the purposes of this section, 'administrative action' shall include, but shall not be limited to, any action or omission to act,

which action or omission has as its purpose and result the effectuation of the provision of section 14 of this 1989 amendatory and supplementary act regarding retroactivity.

"b. (1) If, on or after January 1, 1989 and prior to the effective date of this 1989 amendatory and supplementary act, moneys are paid from the fund for election campaign expenses pursuant to subsection a. of section 8 of P.L.1974, c. 26 (C.19:44A-33) in behalf of a qualified candidate under the provisions of paragraph (3) or (4) of subsection m. of section 3 of P.L.1973, c. 83 (C.19:44A-3), and that candidate ceases on that effective date to meet the requirements of a 'qualified candidate' under the amendatory provisions of section 1 of this 1989 amendatory and supplementary act, the Election Law Enforcement Commission is hereby authorized and directed to place into escrow any sums paid in behalf of the candidate from the fund for election campaign expenses, and not expended, until the candidate again becomes a qualified candidate under those amendatory provisions. On and after the 15th day following that effective date the commission may, and not later than the 45th day following that effective date the commission shall, recover the funds so escrowed if the candidate has not by the date on which such suit is commenced again become a qualified candidate.

"(2) If, on or after June 6, 1989 and prior to the effective date of this 1989 amendatory and supplementary act, moneys are paid from the fund for election campaign expenses pursuant to subsection b. of section 8 of P.L.1974, c. 26 (C.19:44A-33) in behalf of a qualified candidate under the provisions of paragraph (1) or (2) of subsection m. of section 3 of P.L.1973, c. 83 (C.19:44A-3), and that candidate ceases on that effective date to meet the requirements of a "qualified candidate" under the amendatory provisions of section 1 of this 1989 amendatory and supplementary act, the Election Law Enforcement Commission is hereby authorized and directed to

place into escrow any sums paid in behalf of the candidate from the fund for election campaign expenses, and not expended, until the candidate again becomes a qualified candidate under those amendatory provisions. On and after the 15th day following that effective date the commission may, and not later than the 45th day following that effective date the commission shall, recover the funds so escrowed if the candidate has not by the date on which such suit is commenced again become a qualified candidate.

"c. Subject to the provisions of subsection b. of this section, in the case of any qualified candidate for nomination for election or for election to the office of Governor in 1989 in whose behalf application is made prior to the effective date of this 1988 amendatory and supplementary act to receive moneys from the fund for election campaign expenses, if the application so made would have entitled the candidate to receive a larger amount of such moneys if that application had been made on or after that effective date, the candidate shall be entitled to receive in full that larger amount with respect to that application, provided the candidate continues to be or again becomes a qualified candidate under the appropriate amendatory provisions of section 1 of this 1988 amendatory and supplementary act.

"13. If any section, subsection, paragraph, sentence or other part of this 1989 amendatory and supplementary act is adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder hereof, but shall be confined in its effect to the section, subsection, paragraph, sentence or other part hereof directly involved in the controversy in which said judgment shall have been rendered.

"14. This act shall take effect immediately and shall be retroactive to January 1, 1989, but section 3 shall be applicable only to the primary and general elections for the office of Governor to be held in 1993 and thereafter."

Administrative Code References

Definitions, election law enforcement, see N.J.A.C. 19:25-1.7.

Library References

Words and Phrases (Perm. Ed.)

Notes of Decisions

Other thing of value 2
Political committee 3
Political information 4
Validity 1

1. Validity

This provision of the New Jersey Campaign Contributions and Expenditures Reporting Act providing that any organization which "provides political information concerning any candidate or candidates for public office or with respect to any public question" is a political information organization and must comply with reporting and disclosure provisions of the Act even if it did not apply to most neutral conveyances of information, was plainly unconstitutional. *American Civil Liberties Union of New Jersey v. New Jersey Election Law Enforcement Commission*, D.C.N.J.1981, 509 F.Supp. 1123.

Although judgment of the trial court invalidated provisions of Campaign Contributions and Expenditures Reporting Act as to "political committees" as well as to political information organizations, holding as to the former was not sought nor defended on appeal and thus, in light of limited issues litigated, inclusion of political committees in determination was improper and would be set aside. *New Jersey State Chamber of Commerce v. New Jersey Election Law Enforcement Commission*, 155 N.J.Super. 218, 382 A.2d 670 (A.D.1977), affirmed and modified on other grounds 82 N.J. 57, 411 A.2d 168.

2. Other thing of value

Publication and distribution of newsletter, drafted and signed by state assembly candidate and ostensibly sent by utilities authority of which he was chairman, to customers and residents of area serviced by that authority who were also his constituents, constituted an "other thing of value" contributed to his campaign, which he was required to report under Campaign Contributions and Expenditures Reporting Act. *Dawes v. Salkind*, 156 N.J.Super. 195, 383 A.2d 743 (A.D. 1978).

Visits by U.S. Attorney General and Secretary of Interior during gubernatorial election campaign were not such as to require that all or a portion of the costs thereof be allocated against Governor's campaign expenditure fund pursuant to the Campaign Contributions and Expenditures Reporting Act or the regulations promulgated pursuant thereto. *People for Whitman Committee v. Florio '93, Inc.*, 93 N.J.A.R.2d (ELE) 33 (1993).

3. Political committee

Ruling that group organized to secure signatures to force recall election of mayor was "political committee" within meaning of this act so as to subject group to reporting requirements of the act should not have been restricted to prospective application, although decision was one of first impression, given that group could not reasonably have assumed it had no reporting obligation under comprehensive election financing law disclosure scheme and that group was informed by Election Law Enforcement Commission prior to recall election that it was required to file pre and postelection reports, but failed to timely comply with its statutory obligations; thus, group could not avoid liability for civil penalties assessed by Commission for violation of statutory requirements. *New Jersey Election Law Enforcement Com'n v. Citizens to Make Mayor-Council Government Work*, 107 N.J. 380, 526 A.2d 1069 (1987).

4. Political information

Trade letter from member of Governor's office to inform leaders of Cuban-American community of status of federal appropriation was a political communication which was not exempt from reporting requirements where the purpose of the letter was not limited solely to communicating a governmental event and requiring constituents to take action. *People for Whitman Committee v. Florio '93, Inc.*, 93 N.J.A.R.2d (ELE) 27 (1993).

Governor's campaign did not violate election law by erecting highway signs containing the governor's name. *Joseph*

Note 4

Marion Election Committee v. Florio '93, Inc., 93 N.J.A.R.2d (ELE) 24 (1993).

Public Service announcement made on television by Governor to remind everyone that prevention of child abuse was a community responsibility was not a political communication where the message did not contain a statement of the govern-

mental or political objectives or achievements of the Governor and was not broadcast at such time as when it was not likely to be seen and heard by a New Jersey audience substantially comprised of persons eligible to vote. People for Whitman Committee v. Florio '93, Inc., 93 N.J.A.R.2d (ELE) 12 (1993).

19:44A-4. Application of act

The provisions of this act shall apply:

- a. (Deleted by amendment; P.L.1981, c. 151.)
- b. (Deleted by amendment; P.L. 1983, c. 579.)
- c. In any election at which a public question is to be voted upon by the voters of the State or any political subdivision thereof;
- d. In any election for any public office of the State or any political subdivision thereof; provided, however, that this act shall not, except for paragraph (2) of subsection a. of section 8 of the act (C. 19:44A-8), apply to elections for party office.

L.1973, c. 83, § 4, eff. April 24, 1973. Amended by L.1981, c. 151, § 3, eff. May 22, 1981; L.1983, c. 579, § 8, eff. Jan. 17, 1984.

Notes of Decisions

Validity of prior law 1

1. Validity of prior law

By narrowing construction of phrase "to influence * * * legislation" so as to restrict application of Campaign Contributions and Expenditures Reporting Act to persons whose direct, express, and in-

tentional communication with legislators for purpose of affecting outcome of legislation were undertaken on a substantial basis, Act was saved from being facially unconstitutional on First Amendment grounds. New Jersey State Chamber of Commerce v. New Jersey Election Law Enforcement Commission, 82 N.J. 57, 411 A.2d 168 (1980).

19:44A-5. Election law enforcement commission; creation; members; appointment; qualifications; term of office; compensation; allocation to department of law and public safety; independence

There is hereby created a commission consisting of four members which shall be designated as the New Jersey Election Law Enforcement Commission. The members shall be appointed by the Governor by and with the advice and consent of the Senate for a term of 3 years, beginning on July 1 and ending June 30, except as hereinafter provided. The Governor shall designate one of the commission members to serve as chairman of the commission. No more than two members shall belong to the same political party, and no person holding a public office or an office in any political party shall be eligible for appointment to the commission. Of the members initially

appointed, two shall be appointed for a term of 3 years, one for a term of 2 years and one for a term of 1 year. Each member shall serve until his successor has been appointed and qualified. In case of a vacancy, however, the successor shall be appointed in like manner for the unexpired term only. The members shall serve without compensation, but shall be reimbursed for necessary expenses incurred in the performance of their duties under this act. For the purpose of complying with the provisions of Article V, Section IV, paragraph 1 of the New Jersey Constitution, the Election Law Enforcement Commission is hereby allocated within the Department of Law and Public Safety; but, notwithstanding said allocation, the commission shall be independent of any supervision or control by the department or by any board or officer thereof, it being the intention of this act that the assignment, direction, discipline and supervision of all the employees of the commission shall be so far as possible, and except as otherwise provided in this act, fully determined by the commission or by such officers and employees thereof to whom the commission may delegate the powers of such assignment, direction, discipline and supervision.

L.1973, c. 83, § 5, eff. April 24, 1973. Amended by L.1983, c. 579, § 9, eff. Jan. 17, 1984.

Library References

Elections ¶49.

WESTLAW Topic No. 144.

C.J.S. Elections § 56.

19:44A-6. Executive director; employees; commission; duties; powers; distribution of information; void elections; law applicable; quarters; advisory opinions

a. The commission shall appoint a full-time executive director, legal counsel and hearing officers, all of whom shall serve at the pleasure of the commission and shall not have tenure by reason of the provisions of chapter 16 of Title 38 of the Revised Statutes. The commission shall also appoint such other employees as are necessary to carry out the purposes of this act, which employees shall be in the classified service of the civil service and shall be appointed in accordance with and shall be subject to the provisions of Title 11, Civil Service.

b. It shall be the duty of the commission to enforce the provisions of this act, to conduct hearings with regard to possible violations and to impose penalties; and for the effectual carrying out of its enforcement responsibilities the commission shall have the authority to initiate a civil action in any court of competent jurisdiction for the

purpose of enforcing compliance with the provisions of this act or enjoining violations thereof or recovering any penalty prescribed by this act. The commission shall promulgate such regulations and official forms and perform such duties as are necessary to implement the provisions of this act. Without limiting the generality of the foregoing, the commission is authorized and empowered to:

(1) Develop forms for the making of the required reports;

(2) Prepare and publish a manual for all candidates, political committees and continuing political committees, prescribing the requirements of the law, including uniform methods of bookkeeping and reporting and requirements as to the length of time that any person required to keep any records pursuant to the provisions of this act shall retain such records, or any class or category thereof, or any other documents, including canceled checks, deposit slips, invoices and other similar documents, necessary for the compilation of such records;

(3) Develop a filing, coding and cross-indexing system;

(4) Permit copying or photo-copying of any report required to be submitted pursuant to this act as requested by any person;

(5) Prepare and make available for public inspection summaries of all said reports grouped according to candidates, parties and issues, containing the total receipts and expenditures, and the date, name, address and amount contributed by each contributor;

(6) Prepare and publish, prior to May 1 of each year, an annual report to the Legislature;

(7) Ascertain whether candidates, committees, organizations or others have failed to file reports or have filed defective reports; extend, for good cause shown, the dates upon which reports are required to be filed; give notice to delinquents to correct or explain defects; and make available for public inspection a list of such delinquents;

(8) Ascertain the total expenditures for candidates and determine whether they have exceeded the limits set forth in this act; notify candidates, committees or others if they have exceeded or are about to exceed the limits imposed;

(9) Hold public hearings, investigate allegations of any violations of this act, and issue subpoenas for the production of documents and the attendance of witnesses;

(10) Forward to the Attorney General or to the appropriate county prosecutor information concerning any violations of this act which may become the subject of criminal prosecution or which may warrant the institution of other legal proceedings by the Attorney General.

c. The commission shall take such steps as may be necessary or appropriate to furnish timely and adequate information, in appropriate printed summaries and in such other form as it may see fit, to every candidate or prospective candidate for public office who becomes or is likely to become subject to the provisions of this act, and to every treasurer and depository duly designated under the provisions of this act, informing them of their actual or prospective obligations and responsibilities under this act. Such steps shall include, but not be limited to, furnishing to every person on whose behalf petitions of nomination are filed for any public office a copy of such printed summary as aforesaid, which shall be furnished to such person by the commission through the public official charged with the responsibility of receiving and accepting such petitions of nomination, at the time when such petitions are filed. The commission shall also make available copies of such printed summary to any other person requesting the same. The commission shall also take such steps as it may deem necessary or effectual to disseminate among the general public such information as may serve to guide all persons who may become subject to the provisions of this act by reason of their participation in election campaigns or in the dissemination of political information, for the purpose of facilitating voluntary compliance with the provisions and purposes of this act. In the dissemination of such information, the commission shall to the greatest extent practicable enlist the cooperation of commercial purveyors, within and without the State, of materials and services commonly used for political campaign purposes.

d. If the nomination for or election to any public office or party position becomes void under the terms of subsection c. of section 21 of this act,¹ the withholding or revocation of his certificate of election, the omission of his name from the ballot or the vacation of the office into which he has been inducted as a result of such void election, as the case may be, shall be subject to the provisions of chapter 3, articles 2 and 3, of this Title (R.S. 19:3-7 et seq.).

e. The commission shall be assigned suitable quarters for the performance of its duties hereunder.

f. The commission through its legal counsel is authorized to render advisory opinions as to whether a given set of facts and circumstances would constitute a violation of any of the provisions of this act, or whether a given set of facts and circumstances would render any person subject to any of the reporting requirements of this act.

Unless an extension of time is consented to by any person requesting an advisory opinion, the commission shall render its advisory opinion within 10 days of receipt of the request therefor. Failure of

the commission to reply to a request for an advisory opinion within the time so fixed or agreed to shall preclude it from instituting proceedings for imposition of a penalty upon any person for a violation of this act arising out of the particular facts and circumstances set forth in such request, except as such facts and circumstances may give rise to a violation when taken in conjunction with other facts and circumstances not set forth in such request.

L.1973, c. 83, § 6, eff. April 24, 1973. Amended by L.1983, c. 579, § 10, eff. Jan. 17, 1984.

¹ N.J.S.A. § 19:44A-21.

Historical and Statutory Notes

Commission Authorized to Take Action Necessary to Insure that L.1993, c. 65 is Applicable to June, 1993 Primary Election. L.1993, c. 65, § 26, provides:

"Notwithstanding any other law to the contrary, the Election Law Enforcement Commission is hereby empowered and directed to publish any rule and to take any administrative action whatsoever, necessary to insure that the provisions of this 1993 amendatory and supplementary act shall be applicable to the June, 1993 primary election. The adoption and publication of rules shall, to the extent feasible, be subject to the provisions of the

"Administrative Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.), provided that the commission shall be excused from strict compliance with any requirement under that act if and to the extent that it determines, in the reasonable exercise of its discretion, that the public interest in the timely implementation of the provisions of this 1993 amendatory and supplementary act so requires. Any rule adopted by this provision shall take effect on the 45th day following enactment of this amendatory and supplementary act [eff. Apr. 22, 1993]."

Administrative Code References

Election law enforcement commission, rules and regulations, see N.J.A.C. 19:25-1.1 et seq.

Public financing, election for governor, see N.J.A.C. 19:25-15.1 et seq., 19:25-16.1 et seq.

Severability clause, see N.J.A.C. 19:25-21.1.

American Law Reports

Power of corporation to make political contribution or expenditure under state law, 79 ALR3d 491.

State regulation of the giving or making of political contributions or ex-

penditures by private individuals, 94 ALR3d 944.

Notes of Decisions

Advisory opinions 2
Ascertainment of expenditures 3
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Validity of regulations 1

1. Validity of regulations

Administrative regulation setting \$100 threshold for enforcement of Campaign Contributions and Expenditures Reporting Act would be set aside for reason that the figure was too low to effectuate the

legislative intent of any regulating flow of significant money in area of legislative influence. *New Jersey State Chamber of Commerce v. New Jersey Election Law Enforcement Commission*, 82 N.J. 57, 411 A.2d 168 (1980).

2. Advisory opinions

Advisory opinions of Election Law Enforcement Commission requiring allocation of portion of certain campaign expenses for combined advertising by Assembly candidates or county and other local office candidates which include reference to gubernatorial candidate to statutory [N.J.S.A. 19:44A-7] gubernatorial campaign expenditure limits exceeded scope of authority of Commission and thus, were invalid. *Friends of Governor Tom Kean v. New Jersey Election Law Enforcement Com'n*, 203 N.J. Super. 523, 497 A.2d 555 (A.D.1985), certification granted 102 N.J. 319, 508 A.2d 200, affirmed 102 N.J. 325, 508 A.2d 204, opinion issued 114 N.J. 33, 552 A.2d 612.

3. Ascertainment of expenditures

Regulation of Election Law Enforcement Commission, which charged gubernatorial candidate with nongubernatorial candidate's expenditures whenever nongubernatorial candidate's advertisement included support of gubernatorial candidate, exceeded Commission's authority; Commission could not charge gubernatorial candidate with another candidate's truly independent expenditures. *Friends*

of Governor Tom Kean v. New Jersey Election Law Enforcement Com'n, 114 N.J. 33, 552 A.2d 612 (1985).

4. Investigation of violations

Election Law Enforcement Commission (ELEC) was not entitled to disclosure of grand jury transcripts and evidence collected in investigation of allegations that corporation and certain of its officials had violated provisions of New Jersey Campaign Contributions and Expenditures Reporting Act, after grand jury returned no indictments but handed up presentment in which it recommended that evidence be turned over to ELEC for further administrative proceedings, where ELEC had made no independent effort to investigate matter and therefore did not establish strong showing of particularized need sufficient to outweigh public interest in preserving grand jury secrecy. *Matter of Grand Jury Testimony*, 124 N.J. 443, 591 A.2d 614 (1991).

5. Fines and penalties

Although election law enforcement commission's release of its preliminary finding to press might have been harmful to candidate, that in itself did not constitute grounds for disqualification of commission, which fined him for negligently omitting campaign contribution from his report. *Dawes v. Salkind*, 156 N.J. Super. 195, 383 A.2d 743 (A.D.1978).

19:44A-7. Limitation on amount spent in aid of candidate for Governor

The amount which may be spent in aid of the candidacy of any qualified candidate for Governor at any election shall not exceed in a primary election \$2,200,000, and in a general election \$5,000,000; but such sums shall not include the traveling expenses of the candidate or of any person other than the candidate if such traveling expenses are voluntarily paid by such person without any understanding or agreement with the candidate that they shall be, directly or indirectly, repaid to him by the candidate.

L.1973, c. 83, § 7, eff. April 24, 1973. Amended by L.1980, c. 74, § 2, eff. July 23, 1980; L.1989, c. 4, § 2.

Historical and Statutory Notes

Retroactivity and severability of L.1989, c. 4, see Historical Note under § 19:44A-3.

Statement: Committee statement to Senate, No. 1176—L.1980, c. 74, see § 19:44A-3.

Library References

Elections § 317.1.

WESTLAW Topic No. 144.

C.J.S. Elections § 329.

United States Supreme Court

Free speech and association, campaign spending limits, political party expenditures independent of candidates, see Colorado Republican Federal Campaign

Committee v. Federal Election Com'n, 1996, 116 S.Ct. 2309, 518 U.S. 604, 135 L.Ed.2d 795, on remand 96 F.3d 471.

Notes of Decisions

Contrary to limitations, expenditures 2
Expenditures 2, 3

Contrary to limitations 2

Independent expenditures 3

Independent expenditures 3

Validity 1

1. Validity

Campaign expenditure limits imposed upon gubernatorial candidate concomitant with that candidate's receipt of public financing were justified by state's interests in avoiding corruption or appearance of corruption in electoral process and by policy of enabling qualified persons to seek state's highest office despite relative lack of wealth, even though limits restrained candidate's freedom of speech. Friends of Governor Tom Kean v. New Jersey Election Law Enforcement Com'n, 203 N.J.Super. 523, 497 A.2d 555 (A.D.1985), certification granted 102 N.J. 319, 508 A.2d 200, affirmed 102 N.J. 325, 508 A.2d 204, opinion issued 114 N.J. 33, 552 A.2d 612.

This section of the New Jersey Campaign Contributions and Expenditures Reporting Act of 1973 as it read prior to the 1980 amendment which limited the amount of money to be spent in the aid of the candidacy of any candidate for a public office was an invalid restriction on First Amendment protected right of political expression and association Atty.Gen. F.O.1976, No. 10.

2. Expenditures—Contrary to limitations

Members of county political party committee had standing to bring action against committee's disbursing and managing officers seeking to recover on behalf of committee funds alleged to have been disbursed by defendants for purposes other than those to which such expenditures are restricted by Campaign Reporting Act. O'Neill v. Lerner, 154 N.J.Super. 317, 381 A.2d 383 (A.D.1977), certification denied 75 N.J. 610, 384 A.2d 840.

There is no remedy available under Campaign Reporting Act, § 19:44A-1 et seq., express or implied, which provides for civil restitution to political party committee of committee funds expended for purposes contrary to limitations of Act by those responsible for their alleged diversion. O'Neill v. Lerner, 154 N.J.Super. 317, 381 A.2d 383 (A.D.1977), certification denied 75 N.J. 610, 384 A.2d 840.

3. — Independent expenditures

Independent expenditure limitation requiring allocation of portion of certain campaign expenses of Assembly candidates and candidates for other county and local offices to statutory [N.J.S.A. 19:44A-7] gubernatorial campaign expenditure limits violated First Amendment freedoms of speech and association. Friends of Governor Tom Kean v. New Jersey Election Law Enforcement Com'n, 203 N.J.Super. 523, 497 A.2d 555 (A.D. 1985), certification granted 102 N.J. 319,

508 A.2d 200, affirmed 102 N.J. 325, 508 A.2d 204, opinion issued 114 N.J. 33, 552 A.2d 612.

Expenditure for combined advertising by Assembly candidate which includes reference to gubernatorial candidate is not properly allocable to statutory [N.J.S.A. 19:44A-7] gubernatorial campaign expenditure limits unless expenditure is authorized, coordinated, or controlled by gubernatorial candidate or such candidate's authorized campaign committee, even though there is common interest of Assembly and gubernatorial candidate. *Friends of Governor Tom Kean v. New Jersey Election Law Enforcement Com'n*, 203 N.J.Super. 523, 497 A.2d 555 (A.D.1985), certification granted 102 N.J. 319, 508 A.2d 200, affirmed 102 N.J. 325, 508 A.2d 204, opinion issued 114 N.J. 33, 552 A.2d 612.

Regulation which was adopted by election law commission pursuant to its powers under Campaign Contributions and Expenditures Reporting Act and which provided that subject to act's expenditure limitations providing that amounts spent in aid of candidate shall not exceed 50¢ for each voter who voted in last preceding general election in presidential year in district in which public office is sought, nothing contained in act prohibits an expenditure in any amount by candidate from his own funds was not invalid by reason of provision of act limiting individual contributions to gubernatorial candidate to \$600; limitation on contributions to gubernatorial candidate does not extend to expenditures. *Common Cause of New Jersey v. New Jersey Election Law Enforcement Commission*, 155 N.J.Super. 241, 382 A.2d 681 (A.D.1978).

19:44A-7.1. Adequacy of limits of amounts; adjustments for each gubernatorial election; report; notice to candidates

a. For the purpose of ensuring the continuing adequacy of the limits set by law upon contributions, expenditures and certain other amounts relating to campaigns for nomination or election to the office of Governor, the Election Law Enforcement Commission is authorized and directed to adjust the limits on those amounts as provided herein. The limitation amounts thus adjusted shall apply to the primary and general elections for the office of Governor to be held in the year following the year in which that adjustment is required hereunder to be made.

b. The commission shall establish an index reflecting the changes occurring in the general level of prices of particular goods and services, including but not limited to goods and services within such categories of expenditure as mass media and other forms of public communication, personnel, rent, office supplies and equipment, data processing, utilities, travel and entertainment, and legal and accounting services, directly affecting the overall costs of election campaigning in this State. The index shall be weighted in accordance with the impact in the preceding general election for the office of Governor of the respective prices of each of those several goods and services upon those overall costs. Not later than December 1 of each year preceding any year in which a general election is to be held to fill the office of Governor for a four-year term, the commission shall determine the percentage of change in this index which shall have occurred during the four-year period ending with the year of the gubernatorial election, and shall adjust the amounts, as set forth in subsection c. of this

section, which shall be applicable under P.L.1973, c. 83 (C.19:44A-1 et seq.) to the primary and general elections for the office of Governor to be held in the following year by multiplying that percentage of change, plus 100%, times the amounts applicable thereunder to the primary and general elections for that office held in the third year preceding the year in which that December 1 occurs; provided that any amount so adjusted shall be rounded as follows: if the adjusted amount is less than \$20,000 and is not an exact multiple of \$100, to the next higher exact multiple of \$100; if the adjusted amount is more than \$20,000 but less than \$200,000 and is not an exact multiple of \$1,000, to the next higher exact multiple of \$1,000; if the adjusted amount is more than \$200,000 but less than \$2,000,000 and is not an exact multiple of \$10,000, to the next higher exact multiple of \$10,000; and if the adjusted amount is more than \$2,000,000 but less than \$20,000,000 and is not an exact multiple of \$100,000, to the next higher exact multiple of \$100,000.

c. The amounts subject to adjustment as provided under this section shall be:

(1) The maximum amount of contributions permitted to be made to any candidate for nomination for election or for election to the office of Governor pursuant to section 4 of P.L.1974, c. 26 (C.19:44A-29) and the amount of contributions with respect to which a qualified candidate for nomination for election or for election to that office shall be eligible to receive moneys from the fund for election campaign expenses pursuant to section 8 of P.L.1974, c. 26 (C.19:44A-33);

(2) The amount of deposits or expenditures required to have been made by a candidate for nomination for election or for election to the office of Governor in order for that candidate to be a qualified candidate under subsection m. of section 3 of P.L.1973, c. 83 (C.19:44A-3) and the amount of such deposits into such a candidate's bank account for which no payment of public funds is to be made pursuant to section 8 of P.L.1974, c. 26 (C.19:44A-33);

(3) The maximum amount which may be spent in aid of the candidacy of a qualified candidate for the office of Governor in a primary or a general election pursuant to section 7 of P.L.1973, c. 83 (C.19:44A-7); and

(4) The maximum amount which any qualified candidate for nomination for election in a primary election or for election to the office of Governor in a general election may receive from the fund for election campaign expenses pursuant to section 8 of P.L.1974, c. 26 (C.19:44A-33).

d. Not later than December 15 of each year preceding any year in which a general election is to be held to fill the office of Governor for

a four-year term, the commission shall report to the Legislature its adjustment of limits in accordance with the provisions of this section. Whenever, following the transmittal of that report, the commission shall have had notice that a person has declared as a candidate for nomination for election or for election to the office of Governor in the forthcoming primary or general election, it shall promptly notify that candidate of the amounts of those adjusted limits.

L.1980, c. 74, § 19, eff. July 23, 1980. Amended by L.1989, c. 4, § 3.

Historical and Statutory Notes

Retroactivity and severability of L.1989, c. 4, see Historical Note under § 19:44A-3. thereafter, see Historical Note under § 19:44A-3.

Section 3 of L.1989, c. 4, applicable only to primary and general elections for office of Governor to be held in 1993 and **Statement:** Committee statement to Senate, No. 1176—L.1980, c. 74, see § 19:44A-3.

Library References

Elections § 317.1.

WESTLAW Topic No. 144.

C.J.S. Elections § 329.

19:44A-7.2. Adjustment of limits on amount of contributions allowable for offices other than governor; amounts subject to adjustment

a. Not later than December 1 of each year preceding any year in which a general election is to be held to fill the office of Governor for a four-year term, the Election Law Enforcement Commission shall adjust the amounts, set forth in subsection b. of this section, which shall be applicable under P.L.1973, c. 83 (19:44A-1 et seq.) to primary and general elections for any public office other than the office of Governor, to limitations on contributions to and from political committees, continuing political committees, candidate committees, joint candidates committees, political party committees and legislative leadership committees and to other amounts, at a percentage which shall be the same as the percentage of change that the commission applies to the amounts used for the primary and general elections for the office of Governor held in the third year preceding the year in which that December 1 occurs, pursuant to section 19 of P.L.1980, c. 74 (C. 19:44A-7.1), and any amount so adjusted shall be rounded in the same manner as provided in that section.

b. The amounts subject to adjustment as provided under this section shall be:

(1) the minimum amount raised or expended by any two or more persons acting jointly who qualify as a political committee and the

minimum amount contributed or expected to be contributed in any calendar year by any group of two or more persons acting jointly who qualify as a continuing political committee as defined in section 3 of P.L.1973, c. 83 (C. 19:44A-3);

(2) the minimum amount of a contribution to a political committee, continuing political committee, legislative leadership committee or political party committee which triggers an obligation to report that contribution to the commission pursuant to section 8 of P.L. 1973, c. 83 (C. 19:44A-8), and the minimum amount of a contribution to a candidate, candidate committee or joint candidates committee which triggers an obligation to report that contribution to the commission pursuant to section 16 of P.L.1973, c. 83 (C. 19:44A-16);

(3) the minimum amount of a contribution to a political committee, continuing political committee, legislative leadership committee or a political party committee received during the period between the 13th day prior to the election and the date of the election, the minimum amount of an expenditure by a political committee during that period, and the minimum amount of an expenditure by a continuing political committee during the period beginning after March 31 and ending on the date of the primary election and the period beginning after September 30 and ending on the date of the general election which triggers an obligation to report that contribution to the commission pursuant to section 8 of P.L.1973, c. 83 (C. 19:44A-8), and the minimum amount of a contribution to a candidate, candidate committee or joint candidates committee received during the period between the 13th day prior to the election and the date of the election which triggers an obligation to report that contribution to the commission pursuant to section 16 of P.L.1973, c. 83 (C. 19:44A-16);

(4) the maximum amount which may be expended by the campaign organizations of two or more candidates forming a joint candidates committee without being required to file contribution reports, pursuant to section 8 of P.L.1973, c. 83 (C. 19:44A-8);

(5) the maximum amount that a person, not acting in concert with any other person or group, may spend to support or defeat a candidate or to aid the passage or defeat of a public question without being required to report all such expenditures and expenses to the commission pursuant to section 11 of P.L.1973, c. 83 (C. 19:44A-11) and the maximum amount that a person, not acting in concert with any other person or group, may raise through a public solicitation and expend to finance any lawful activity in support of or in opposition to any candidate or public question or to seek to influence the content, introduction, passage or defeat of legislation pursuant to section 19 of P.L.1973, c. 83 (C. 19:44A-19);

(6) the maximum amount that may be expended, in the aggregate, on behalf of a candidate without requiring that candidate to file contribution reports with the commission and the maximum amount that may be expended, in the aggregate, on behalf of a candidate seeking election to a public office of a school district, without requiring that candidate to file contribution reports with the commission pursuant to section 16 of P.L.1973, c. 83 (C. 19:44A-16);

(7) the maximum amount of penalty which may be imposed by the commission on any person who fails to comply with the regulatory provisions of P.L.1973, c. 83 (C. 19:44A-1 et seq.) for a first offense or a second and subsequent offenses, pursuant to section 22 of P.L.1973, c. 83 (C. 19:44A-22);

(8) the maximum amount of penalty which may be imposed by the commission on any corporation or labor organization which provides any of its employees any additional increment of salary for the express purpose of making a contribution to a candidate, candidate committee, joint candidates committee, political party committee, legislative leadership committee, political committee or continuing political committee for a first or a second and subsequent offenses, pursuant to section 15 of P.L.1993, c. 65 (C. 19:44A-20.1);

(9) the maximum amount of contributions permitted to be made by an individual, a corporation or labor organization to a candidate, candidate committee or joint candidates committee, the maximum amount of contributions permitted to be made by a political committee or a continuing political committee to a candidate, candidate committee or joint candidates committee other than the committee of a candidate for nomination or election to the office of Governor and the maximum amount of contributions permitted to be made by one candidate, candidate committee or joint candidates committee, other than the committee of a candidate for nomination or election to the office of Governor, to another candidate, candidate committee or joint candidates committee other than the committee of a candidate for nomination or election to the office of Governor pursuant to section 18 of P.L.1993, c. 65 (C. 19:44A-11.3);

(10) the maximum amount of contributions permitted to be made by an individual, corporation, labor organization, political committee, continuing political committee, candidate committee or joint candidates committee or any other group to any political party committee or any legislative leadership committee pursuant to section 19 of P.L.1993, c. 65 (C. 19:44A-11.4);

(11) the maximum amount of contributions permitted to be made by a candidate, candidate committee or joint candidates committee to a political committee or a continuing political committee and the maximum amount of contributions permitted to be made by one

political committee or continuing political committee to another political committee or continuing political committee pursuant to section 20 of P.L.1993, c. 65 (C. 19:44A-11.5);

(12) the amount of filing fees which may be collected from a candidate committee, a joint candidates committee, a continuing political committee, a political party committee, a legislative leadership committee, or any other person pursuant to section 6 of P.L. 1973, c. 83 (C. 19:44A-6) (as that section shall have been amended by P.L.1993, c. 65).

c. Not later than December 15 of each year preceding any year in which a general election is to be held to fill the office of Governor for a four-year term, the commission shall report to the Legislature and make public its adjustment of limits in accordance with the provisions of this section. Whenever, following the transmittal of that report, the commission shall have notice that a person has declared as a candidate for nomination for election or for election to any public office in a forthcoming primary or general election, it shall promptly notify that candidate of the amounts of those adjusted limits.

L.1993, c. 65, § 22.

Historical and Statutory Notes

L.1993, c. 65, § 27, approved Mar. 8, 1993, provides:

"This act shall take effect on the 30th day following enactment [Apr. 7, 1993], but amounts of contributions paid or made, or accepted, on or after January 1 of the year in which such enactment oc-

curs and prior to that effective date by any person to whom the provisions of sections 18, 19, or 20 [§§ 19:44A-11.3, 19:44A-11.4 or 19:44A-11.5] apply shall not be considered in determining the application of those sections on and after that effective date."

American Law Reports

Power of corporation to make political contribution or expenditure under state law, 79 ALR3d 491.

State regulation of the giving or making of political contributions or ex-

penditures by private individuals, 94 ALR3d 944.

Library References

Texts and Treatises

26 Am Jur 2d, Elect § 381.

19:44A-8. Political committees and continuing political committees; reports; certification; notices; filing; exemptions

a. (1) Each political committee shall make a full cumulative report, upon a form prescribed by the Election Law Enforcement

Commission, of all contributions in the form of moneys, loans, paid personal services, or other things of value made to it and all expenditures made, incurred, or authorized by it in furtherance of the nomination, election or defeat of any candidate, or in aid of the passage or defeat of any public question, or to provide political information on any candidate or public question, during the period ending 48 hours preceding the date of the report and beginning on the date on which the first of those contributions was received or the first of those expenditures was made, whichever occurred first. The cumulative report, except as hereinafter provided, shall contain the name and mailing address of each person or group from whom moneys, loans, paid personal services or other things of value have been contributed since 48 hours preceding the date on which the previous such report was made and amount contributed by each person or group, and where the contributor is an individual, the report shall indicate the occupation of the individual and the name and mailing address of the individual's employer. In the case of any loan reported pursuant to this subsection, the report shall contain the name and mailing address of each person who has cosigned such loan since 48 hours preceding the date on which the previous such report was made, and where an individual has cosigned such loans, the report shall indicate the occupation of the individual and the name and mailing address of the individual's employer. The cumulative report shall also contain the name and address of each person, firm or organization to whom expenditures have been paid since 48 hours preceding the date on which the previous such report was made and the amount and purpose of each such expenditure. The cumulative report shall be filed with the Election Law Enforcement Commission on the dates designated in section 16 hereof.¹

The campaign treasurer of the political committee reporting shall certify to the correctness of each report.

Each campaign treasurer of a political committee shall file written notice with the commission of a contribution in excess of \$500 received during the period between the 13th day prior to the election and the date of the election, and of an expenditure of money or other thing of value in excess of \$500 made, incurred or authorized by the political committee to support or defeat a candidate in an election, or to aid the passage or defeat of any public question, during the period between the 13th day prior to the election and the date of the election. The notice of a contribution shall be filed in writing or by telegram within 48 hours of the receipt of the contribution and shall set forth the amount and date of the contribution, the name and mailing address of the contributor, and where the contributor is an individual, the individual's occupation and the name and mailing address of the individual's employer. The notice of an expenditure

shall be filed in writing or by telegram within 48 hours of the making, incurring or authorization of the expenditure and shall set forth the name and mailing address of the person, firm or organization to whom or which the expenditure was paid and the amount and purpose of the expenditure.

(2) When a political committee or an individual seeking party office makes or authorizes an expenditure on behalf of a candidate, it shall provide immediate written notification to the candidate of the expenditure.

b. (1) A group of two or more persons acting jointly, or any corporation, partnership, or any other incorporated or unincorporated association including a political club, political action committee, civic association or other organization, which in any calendar year contributes or expects to contribute at least \$2,500.00 to the aid or promotion of the candidacy of an individual, or of the candidacies of individuals, for elective public office or the passage or defeat of a public question or public questions and which expects to make contributions toward such aid or promotion, or toward such passage or defeat, during a subsequent election shall certify that fact to the commission, and the commission, upon receiving that certification and on the basis of any information as it may require of the group, corporation, partnership, association or other organization, shall determine whether the group, corporation, partnership, association or other organization is a continuing political committee for the purposes of this act. If the commission determines that the group, corporation, partnership, association or other organization is a continuing political committee, it shall so notify that continuing political committee.

No person serving as the chairman of a political party committee or a legislative leadership committee shall be eligible to be appointed or to serve as the chairman of a continuing political committee.

(2) A continuing political committee shall file with the Election Law Enforcement Commission, not later than April 15, July 15, October 15 and January 15 of each calendar year, a cumulative quarterly report of all moneys, loans, paid personal services or other things of value contributed to it during the period ending on the 15th day preceding that date and commencing on January 1 of that calendar year or, in the case of the cumulative quarterly report to be filed not later than January 15, of the previous calendar year, and all expenditures made, incurred, or authorized by it during the period, whether or not such expenditures were made, incurred or authorized in furtherance of the election or defeat of any candidate, or in aid of the passage or defeat of any public question or to provide information on any candidate or public question.

The cumulative quarterly report shall contain the name and mailing address of each person or group from whom moneys, loans, paid personal services or other things of value have been contributed and the amount contributed by each person or group, and where an individual has made such contributions, the report shall indicate the occupation of the individual and the name and mailing address of the individual's employer. In the case of any loan reported pursuant to this subsection, the report shall contain the name and address of each person who cosigns such loan, and where an individual has cosigned such loans, the report shall indicate the occupation of the individual and the name and mailing address of the individual's employer. The report shall also contain the name and address of each person, firm or organization to whom expenditures have been paid and the amount and purpose of each such expenditure. The treasurer of the continuing political committee reporting shall certify to the correctness of each cumulative quarterly report.

Each continuing political committee shall provide immediate written notification to each candidate of all expenditures made or authorized on behalf of the candidate.

If any continuing political committee submitting cumulative quarterly reports as provided under this subsection receives a contribution from a single source of more than \$500 after the final day of a quarterly reporting period and on or before a primary, general, municipal, school or special election which occurs after that final day but prior to the final day of the next reporting period it shall, in writing or by telegram, report that contribution to the commission within 48 hours of the receipt thereof, including in that report the amount and date of the contribution; the name and mailing address of the contributor; and where the contributor is an individual, the individual's occupation and the name and mailing address of the individual's employer. If any continuing political committee makes or authorizes an expenditure of money or other thing of value in excess of \$500, or incurs any obligation therefor, to support or defeat a candidate in an election, or to aid the passage or defeat of any public question, after March 31 and on or before the day of the primary election, or after September 30 and on or before the day of the general election, it shall, in writing or by telegram, report that expenditure to the commission within 48 hours of the making, authorizing or incurring thereof.

A continuing political committee which ceases making contributions toward the aiding or promoting of the candidacy of an individual, or of the candidacies of individuals, for elective public office in this State or the passage or defeat of a public question or public questions in this State shall certify that fact in writing to the commis-

sion, and that certification shall be accompanied by a final accounting of any fund relating to such aiding or promoting including the final disposition of any balance in such fund at the time of dissolution. Until that certification has been filed, the committee shall continue to file the quarterly reports as provided under this subsection.

c. Each political party committee and each legislative leadership committee shall file with the Election Law Enforcement Commission, not later than April 15, July 15, October 15 and January 15 of each calendar year, a cumulative quarterly report of all moneys, loans, paid personal services or other things of value contributed to it during the period ending on the 15th day preceding that date and commencing on January 1 of that calendar year or, in the case of the cumulative quarterly report to be filed not later than January 15, of the previous calendar year, and all expenditures made, incurred, or authorized by it during the period, whether or not such expenditures were made, incurred or authorized in furtherance of the election or defeat of any candidate, or in aid of the passage or defeat of any public question or to provide information on any candidate or public question.

The cumulative quarterly report shall contain the name and mailing address of each person or group from whom moneys, loans, paid personal services or other things of value have been contributed and the amount contributed by each person or group, and where an individual has made such contributions, the report shall indicate the occupation of the individual and the name and mailing address of the individual's employer. In the case of any loan reported pursuant to this subsection, the report shall contain the name and address of each person who cosigns such loan, and where an individual has cosigned such loans, the report shall indicate the occupation of the individual and the name and mailing address of the individual's employer. The report shall also contain the name and address of each person, firm or organization to whom expenditures have been paid and the amount and purpose of each such expenditure. The treasurer of the political party committee or legislative leadership committee reporting shall certify to the correctness of each cumulative quarterly report.

If a political party committee or a legislative leadership committee submitting cumulative quarterly reports as provided under this subsection receives a contribution from a single source of more than \$500 after the final day of a quarterly reporting period and on or before a primary, general, municipal, school or special election which occurs after that final day but prior to the final day of the next reporting period it shall, in writing or by telegram, report that

contribution to the commission within 48 hours of the receipt thereof, including in that report the amount and date of the contribution; the name and mailing address of the contributor; and where the contributor is an individual, the individual's occupation and the name and mailing address of the individual's employer.

d. In any report filed pursuant to the provisions of this section the organization or committee reporting may exclude from the report the name of and other information relating to any contributor whose contributions during the period covered by the report did not exceed \$200, provided, however, that (1) such exclusion is unlawful if any person responsible for the preparation or filing of the report knew that it was made with respect to any person whose contributions relating to the same election or issue and made to the reporting organization or committee aggregate, in combination with the contribution in respect of which such exclusion is made, more than \$200 and (2) any person who knowingly prepares, assists in preparing, files or acquiesces in the filing of any report from which the identification of a contributor has been excluded contrary to the provisions of this section is subject to the provisions of section 21 of this act,² but (3) nothing in this proviso shall be construed as requiring any committee or organization reporting pursuant to this act to report the amounts, dates or other circumstantial data regarding contributions made to any other organization or political committee, political party committee or campaign organization of a candidate.

Any report filed pursuant to the provisions of this section shall include an itemized accounting of all receipts and expenditures relative to any testimonial affairs held since the date of the most recent report filed, which accounting shall include the name and mailing address of each contributor in excess of \$200 to such testimonial affair and the amount contributed by each; in the case of an individual contributor, the occupation of the individual and the name and mailing address of the individual's employer; the expenses incurred; and the disposition of the proceeds of such testimonial affair.

e. A political committee shall be exempt from any requirement to file reports pursuant to this section of contributions received or expenditures made in behalf of two or more joint candidates in any election if the committee files with the Election Law Enforcement Commission a sworn statement to the effect that the total amount to be expended on behalf of their candidacies shall not exceed \$4,000.00; provided, that if a committee which has filed such a sworn statement receives contributions from any one source aggregating more than \$200.00, it shall forthwith report that fact, includ-

ing the name and mailing address of the source; where the source is an individual, the occupation of the individual and the name and mailing address of the individual's employer; and the aggregate total of contributions from the source to the commission. Any sworn statement under this subsection may be filed with the notice of designation by a political committee of a campaign treasurer and campaign depository under section 10 of P.L.1973, c. 83 (C. 19:44A-10), if that committee knows or has reason to believe, at the time when the notice of designation is given, that the total amount to be so expended shall not exceed \$4,000.00.

L.1973, c. 83, § 8, eff. April 24, 1973. Amended by L.1981, c. 151, § 4, eff. May 22, 1981; L.1981, c. 337, § 1, eff. Jan. 1, 1982; L.1983, c. 579, § 11, eff. Jan. 17, 1984; L.1993, c. 65, § 3.

¹ N.J.S.A. § 19:44A-16.

² N.J.S.A. § 19:44A-21.

Historical and Statutory Notes

L.1993, c. 65, § 27, approved Mar. 8, 1993, provided:

"This act shall take effect on the 30th day following enactment [Apr. 7, 1993], but amounts of contributions paid or made, or accepted, on or after January 1 of the year in which such enactment occurs and prior to that effective date by any person to whom the provisions of sections 18, 19, or 20 [§§ 19:44A-11.3, 19:44A-11.4 or 19:44A-11.5] apply shall not be considered in determining the ap-

plication of those sections on and after that effective date."

Section 29 of L.1973, c. 83, provides:

"This act shall take effect immediately; provided, however, that the reporting requirements contained in section 8 and section 16 of this act shall remain inoperative for 90 days after the effective date."

Sections 3 of L.1981, c. 337, approved Dec. 16, 1981, provides:

"This act shall take effect January 1, next following enactment."

Library References

Elections \Leftrightarrow 317.4.

WESTLAW Topic No. 144.

C.J.S. Elections § 329.

United States Supreme Court

Reports, minor party campaign disclosures of contributors and recipients of disbursements, see *Brown v. Socialist*

Workers '74 Campaign Committee (Ohio), 1982, 103 S.Ct. 416, 459 U.S. 87, 74 L.Ed.2d 250.

Notes of Decisions

Reports 3
Treasurers 2
Validity 1

1. Validity

This provision of the New Jersey Campaign Contributions and Expenditures

Reporting Act requiring all political information organizations to report names and addresses of all persons who contribute more than \$100 during a calendar year and to itemize all expenditures made during the year, as limited and modified by regulation confining the reporting requirements to activities related to lobby-

ing or to unrelated activities by groups primarily devoted to lobbying, was constitutional. *American Civil Liberties Union of New Jersey v. New Jersey Election Law Enforcement Commission*, D.C.N.J. 1981, 509 F.Supp. 1123.

This provision and § 19:44A-14 (repealed; see, now, § 19:44A-11) of the New Jersey Campaign Contributions and Expenditures Reporting Act requiring disclosure of names of members and contributors and prohibiting anonymous contributions earmarked for lobbying was constitutional. *American Civil Liberties Union of New Jersey v. New Jersey Election Law Enforcement Commission*, D.C.N.J.1981, 509 F.Supp. 1123.

Application of reporting requirements of New Jersey Campaign Contributions and Expenditures Reporting Act [N.J.S.A. 19:44A-1 et seq., 19:44A-8, 19:44A-16] to group organized to secure signatures to force recall election of mayor, did not violate members' First Amendment rights. *New Jersey Election Law Enforcement Com'n v. Citizens To Make Mayor-Council Government Work*, 208 N.J.Super. 583, 506 A.2d 773 (A.D.1986), certification granted 104 N.J. 442, 517 A.2d 432, affirmed in part, reversed in part on other grounds 107 N.J. 380, 526 A.2d 1069.

Although judgment of the trial court invalidated provisions of Campaign Contributions and Expenditures Reporting Act as to "political committees" as well as to political information organizations, holding as to the former was not sought nor defended on appeal and thus, in light of limited issues litigated, inclusion of political committees in determination was improper and would be set aside. *New Jersey State Chamber of Commerce v. New Jersey Election Law Enforcement Commission*, 155 N.J.Super. 218, 382 A.2d 670 (A.D.1977), affirmed and modified on other grounds 82 N.J. 57, 411 A.2d 168.

2. Treasurers

Under this section governing reports by political committees and information organizations, county committee of political party was required to file annual report and treasurer's obligation was to certify report's correctness; thus, treasurer of county committee, not being person charged with responsibility for filing report could not be penalized for late filing. *New Jersey Election Law Enforcement Commission v. Hunterdon County Democratic Committee*, 178 N.J.Super. 233, 428 A.2d 925 (A.D.1981), certification denied 87 N.J. 371, 434 A.2d 1058.

3. Reports

Ruling that group organized to secure signatures to force recall election of mayor was "political committee" within meaning of this act so as to subject group to reporting requirements of the act should not have been restricted to prospective application, although decision was one of first impression, given that group could not reasonably have assumed it had no reporting obligation under comprehensive election financing law disclosure scheme and that group was informed by Election Law Enforcement Commission prior to recall election that it was required to file pre and postelection reports, but failed to timely comply with its statutory obligations; thus, group could not avoid liability for civil penalties assessed by Commission for violation of statutory requirements. *New Jersey Election Law Enforcement Com'n v. Citizens to Make Mayor-Council Government Work*, 107 N.J. 380, 526 A.2d 1069 (1987).

Estoppel of imposition of penalties for failure of state committee to file its annual report on time was not applicable where reliance on representations by the election committee staff was not justified by the statements made. *Elec. Law Enf. Comm'n. v. N.J. Democratic State Comm.*, 2 N.J.A.R. 108 (1980).

19:44A-8.1. Submission of statement of registration by committees; contents

a. Each political committee, as defined in subsection i. of section 3 of P.L.1973, c. 83 (C. 19:44A-3), which aids or promotes the nomination for election or the election of a candidate or the passage or defeat of a public question, each continuing political committee as

defined in subsection n. of section 3 of P.L.1973, c. 83, and each legislative leadership committee as defined in subsection s. of section 3 of P.L.1973, c. 83, shall submit to the commission a statement of registration which includes:

(1) the complete name or identifying title of the committee and the general category of entity or entities, including but not limited to business organizations, labor organizations, professional or trade associations, candidate for or holder of public office, political party, ideological grouping or civic association, the interests of which are shared by the leadership, members, or financial supporters of the committee;

(2) the mailing address of the committee and the name and resident address of a resident of this State who shall have been designated by the committee as its agent to accept service of process; and

(3) a descriptive statement prepared by the organizers or officers of the committee that identifies (a) the names and mailing addresses of the persons having control over the affairs of the committee, including but not limited to persons in whose name or at whose direction or suggestion the committee solicits funds and persons participating in any decision to make a contribution of such funds to any candidate, political committee or continuing political committee; (b) the name and mailing address of any person not included among the persons identified under subparagraph (a) of this paragraph who, directly or through an agent, participated in the initial organization of the committee; (c) in the case of any person identified under subparagraph (a) or subparagraph (b) who is an individual, the occupation of that individual, the individual's home address, and the name and mailing address of the individual's employer, or, in the case of any such person which is a corporation, partnership, unincorporated association, or other organization, the name and mailing address of the organization; and (d) any other information which the Election Law Enforcement Commission may, under such regulations as it shall adopt pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c. 410 (C. 52:14B-1 et seq.), require as being material to the fullest possible disclosure of the economic, political and other particular interests and objectives which the committee has been organized to or does advance. The commission shall be informed, in writing, of any change in the information required by this paragraph within three days of the occurrence of the change. Legislative leadership committees shall be exempt from the requirements of subparagraphs (a), (b) and (c) of this paragraph.

b. After submission of a statement of registration to the commission pursuant to this section, the committee shall use the complete name or identifying title on all documents submitted to the commis-

sion, in all solicitations for contributions, in all paid media advertisements purchased or paid for by the committee in support of or in opposition to any candidate or public question, and in all contributions made by the committee to candidates or other committees.

c. Each report of contributions under section 8 of P.L.1973, c. 83 (C. 19:44A-8) by a political committee, continuing political committee or legislative leadership committee required under subsection a. of this section to submit a statement of registration shall include, in the case of each contributor who is an individual, the home address of the individual if different from the individual's mailing address, or, in the case of any contributor which is an organization, any information, in addition to that otherwise required, which the Election Law Enforcement Commission may, under such regulations as it shall adopt pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c. 410 (C. 52:14B-1 et seq.), require as being material to the fullest possible disclosure of the economic, political and other particular interests and objectives which the contributing organization has been organized to or does advance.

d. Any political committee, continuing political committee or legislative leadership committee may at any time apply to the commission for approval of an abbreviation or acronym of its complete, official name or title for its exclusive use on documents which it shall submit to the commission. Upon verification that the abbreviation or acronym has not been approved for such use by any other political committee, continuing political committee or legislative leadership committee, the commission shall approve the abbreviation or acronym for such use by the applicant committee, and the committee, and any individual, corporation, partnership, membership organization or incorporated or unincorporated association which, under the provisions of P.L.1973, c. 83 (C. 19:44A-1 et seq.), submits any documents to the commission containing a reference to that committee, shall thereafter use that approved abbreviation or acronym in documents submitted to the commission. The commission shall, during its regular office hours, maintain for public inspection in its offices a current alphabetically arranged list of all such approved abbreviations and acronyms, indicating for each the name of the committee for which it stands, and shall make copies of the list available upon request.

L.1993, c. 65, § 21.

Historical and Statutory Notes

L.1993, c. 65, § 27, approved Mar. 8, 1993, provides:

"This act shall take effect on the 30th day following enactment [Apr. 7, 1993], but amounts of contributions paid or

made, or accepted, on or after January 1 of the year in which such enactment occurs and prior to that effective date by any person to whom the provisions of sections 18, 19, or 20 [§§ 19:44A-11.3,

19:44A-11.4 or 19:44A-11.5] apply shall not be considered in determining the application of those sections on and after that effective date."

American Law Reports

State regulation of the giving or making of political contributions or ex-

penditures by private individuals, 94 ALR3d 944.

Library References

Texts and Treatises

26 Am Jur 2d, Elect § 381.

19:44A-9. Candidates in elections; campaign treasurer and campaign depository; appointment; deputies; candidates required to wind up associations with political committees

a. Unless already established, each candidate, as defined in paragraph (1) of subsection c. of section 3 of P.L.1973, c. 83 (C. 19:44A-3), shall, no later than the date on which that candidate first receives any contribution or makes or incurs any expenditures in connection with an election, establish (1) a candidate committee, (2) a joint candidates committee, or (3) both, for the purpose of receiving contributions and making expenditures. No person serving as the chairman of a political party committee or a legislative leadership committee shall be eligible to be appointed or to serve as the chairman of a candidate committee or joint candidates committee, other than a candidate committee or joint candidates committee established to further the nomination for election or the election of that person as a candidate for public office. Subsequent to an election, a candidate, whether or not successful in that election, shall maintain a candidate committee or a joint candidates committee so long as contributions are received or expenditures made by that former candidate. An elected officeholder who receives contributions and who has not maintained a candidate committee or a joint candidates committee shall establish a candidate committee, a joint candidates committee, or both, in a timely manner for the purpose of receiving contributions and making expenditures.

b. The candidate or candidates, as the case may be, shall file with the Election Law Enforcement Commission a certificate of organization on a form prescribed by the commission. The certificate shall identify the name of the committee, which shall be the sole name under which the committee receives contributions, makes expenditures and otherwise does business and which shall include the surname or surnames, as appropriate, of the candidate or candidates,

except that in the case of a joint candidates committee, the name of the committee need not include such surnames if it identifies the legislative district, county, municipality or other jurisdiction in which the candidates jointly seek nomination for election or election and, in any case in which they seek nomination for election or election as the candidates of a political party, the name of that party, provided that no joint candidates committee so named shall take the same name as that of any committee of a political party or another joint candidates committee. In the case of a candidate committee, the name of the committee shall identify the office sought by the candidate. The certificate shall provide for the initial appointment by the candidate, or candidates, of a campaign treasurer and for the designation by the candidate, or candidates, of that treasurer of the candidate committee, or joint candidates committee, as the campaign treasurer of the candidate, or candidates, for the purposes of subsection a. of section 8 of P.L.1973, c. 83 (C. 19:44A-8) and shall generally identify and be signed by the candidate, or candidates, and the chairman and the treasurer of the candidate committee or joint candidates committee, as the case may be. No person serving as the chairman of a political party committee or a legislative leadership committee shall be eligible to be appointed or to serve as the treasurer of a candidate committee or joint candidates committee, other than a candidate committee or joint candidates committee established to further the nomination for election or the election of that person as a candidate for public office. The certificate shall be filed prior to or simultaneously with the filing of a notification of the designation of a campaign depository as provided under subsection c. of this section. Upon the filing of such a certificate of organization and until the termination of the committee, the candidate committee or joint candidates committee shall file the reports which the campaign treasurer or treasurers of the candidate or candidates would otherwise be required to file under subsection a. of section 16 of P.L.1973, c. 83 (C. 19:44A-16).

c. Each candidate, or the candidates comprising a joint candidates committee, shall designate a campaign depository. Any bank authorized by law to transact business in the State may be designated as the campaign depository. Notification of the designation of the campaign depository shall be made by the candidate's, candidates' or committee's filing the name and address of such depository with the Election Law Enforcement Commission no later than the tenth day after receipt by the candidate or the committee of any contribution on behalf of the candidate or candidates or after the making or incurring by the candidate or candidates of any expenditure on behalf of that candidacy, whichever comes first.

d. Each candidate and campaign treasurer shall certify the correctness of each report filed by the candidate committee or joint candidates committee with the commission and that each report conforms with the limitations on contributions and expenditures provided for in sections 18, 19 and 20 of P.L.1993, c. 65 (C. 19:44A-11.3, C. 19:44A-11.4 and C. 19:44A-11.5).

e. A campaign treasurer of a candidate or candidates may appoint deputy campaign treasurers as required and may designate additional campaign depositories in each county in which the campaign is conducted. The candidate or candidates shall file the names and addresses of deputy campaign treasurers and additional campaign depositories with the Election Law Enforcement Commission.

f. A candidate or candidates may remove a campaign treasurer or deputy campaign treasurer. In the case of the death, resignation or removal of a campaign treasurer, the candidate or candidates shall appoint a successor as soon as practicable and shall file the name and address of that person with the Election Law Enforcement Commission within three days. A candidate may serve as his or her own campaign treasurer. One of the candidates in a joint candidates committee may serve as the campaign treasurer of the entire committee.

g. An individual who is a candidate for two or more public offices in an election or in separate elections shall establish separate candidate committees or separate joint candidates committees or both for each office contested.

h. (1) On and after the 366th day following the effective date of P.L.1993, c. 65, no candidate shall establish, authorize the establishment of, maintain, or participate directly or indirectly in the management or control of, any political committee or any continuing political committee. Within one year after the enactment of this act, every candidate who maintains, or who participates either directly or indirectly in the management or control of, one or more political committees or one or more continuing political committees, or both, shall wind up or cause to be wound up the affairs of those committees in accordance with the provisions of section 8 of P.L.1973, c. 83 (C. 19:44A-8) and transfer all of the funds therein into a candidate committee or a joint candidates committee. All funds thus transferred shall be subject to the provisions of section 17 of P.L.1993, c. 65 (C. 19:44A-11.2).

(2) The person or persons having control over a legislative leadership committee shall not be required to wind up the affairs of that committee but shall be required to conform to the requirements of paragraph (1) of this subsection with regard to any other political committees or continuing political committees under the control of

the person or persons and used by that person for the purpose of receiving contributions and making expenditures.

L.1973, c. 83, § 9, eff. April 24, 1973. Amended by L.1983, c. 579, § 12, eff. Jan. 17, 1984; L.1993, c. 65, § 4; L.1995, c. 194, § 2, eff. Aug. 2, 1995.

Historical and Statutory Notes

L.1993, c. 65, § 27, approved Mar. 8, 1993, provides:

"This act shall take effect on the 30th day following enactment [Apr. 7, 1993], but amounts of contributions paid or made, or accepted, on or after January 1 of the year in which such enactment occurs and prior to that effective date by any person to whom the provisions of

sections 18, 19, or 20 [§§ 19:44A-11.3, 19:44A-11.4 or 19:44A-11.5] apply shall not be considered in determining the application of those sections on and after that effective date."

Prior Laws: R.S. 19:40-1 to 19:40-3.

L.1930, c. 187, §§ 530 to 532, pp. 920, 921, amended by L.1931, c. 148, § 1, p. 277.

Library References

Elections ¶121(1), (2).

WESTLAW Topic No. 144.

C.J.S. Elections § 83 et seq.

Notes of Decisions

Penalties 1

1. Penalties

Application to order the removal of names of candidates for township committee, from the election ballots, on the

ground that the candidates mentioned had not complied with the law in designating a committee to receive and disburse moneys for campaign purposes was not allowed as there was no legal way to take the names from the ballots, and to do so would cause confusion. In re Bernards Tp. Ballots, 36 N.J.L.J. 346 (1913).

19:44A-10. Political committees; organizational treasurer and organizational depository

Each political party committee shall, on or before July 1 in each year, designate a single organizational treasurer and an organizational depository and shall, not later than the tenth day after the designation of the organizational depository file the name and address of that depository, and of the organizational treasurer, with the Election Law Enforcement Commission.

Every political committee may designate a chairman of the committee, but no person serving as the chairman of a political party committee or a legislative leadership committee shall be eligible to be appointed or to serve as the chairman of a political committee. Every political committee shall, not later than the date on which it first receives any contribution or makes or incurs any expenditure in the furtherance or aid of the election or defeat of any candidate or the passage or defeat of any public question, appoint a single campaign treasurer and designate a campaign depository, but no person

serving as the chairman of a political party committee or a legislative leadership committee shall be eligible to be appointed or to serve as the campaign treasurer of a political committee. Not later than the tenth day after the initial designation of the campaign depository, the committee shall file the name and address of the depository, and of the campaign treasurer, with the Election Law Enforcement Commission.

Every continuing political committee shall, not later than the date on which it first receives any contribution or makes or incurs any expenditure in the furtherance or aid of the election or defeat of any candidate or the passage or defeat of any public question, appoint a single organizational treasurer and designate an organizational depository, provided that no person who is the chairman of a political party committee or a legislative leadership committee shall be eligible to be appointed or to serve as the organizational treasurer of a continuing political committee. Not later than the tenth day after the initial designation of the organizational depository, the committee shall file the name and address of the depository, and of the organizational treasurer, with the Election Law Enforcement Commission.

Every legislative leadership committee shall, not later than the date on which it first receives any contribution or makes or incurs any expenditure in the furtherance or aid of the election or defeat of any candidate or the passage or defeat of any public question, appoint a single organizational treasurer and designate an organizational depository. Not later than the tenth day after the initial designation of the organizational depository, the committee shall file the name and address of the depository, and of the organizational treasurer, with the Election Law Enforcement Commission.

An organizational treasurer of a political party committee, a continuing political committee, or a legislative leadership committee and a campaign treasurer of a political committee may appoint deputy organizational or campaign treasurers as may be required and may designate additional organizational or campaign depositories. Such committees shall file the names and addresses of such deputy treasurers and additional depositories with the Election Law Enforcement Commission not later than the fifth day after their appointment or designation, respectively.

Any political party committee, any political committee, any continuing political committee and any legislative leadership committee may remove its organizational or campaign treasurer or deputy treasurer. In the case of the death, resignation or removal of its organizational or campaign treasurer, the committee shall appoint a successor as soon as practicable and shall file his name and

address with the Election Law Enforcement Commission within three days.

L.1973, c. 83, § 10, eff. April 24, 1973. Amended by L.1983, c. 579, § 13, eff. Jan. 17, 1984; L.1993, c. 65, § 5.

Historical and Statutory Notes

L.1993, c. 65, § 27, approved Mar. 8, 1993, provided:

"This act shall take effect on the 30th day following enactment [Apr. 7, 1993], but amounts of contributions paid or made, or accepted, on or after January 1 of the year in which such enactment oc-

curs and prior to that effective date by any person to whom the provisions of sections 18, 19, or 20 [§§ 19:44A-11.3, 19:44A-11.4 or 19:44A-11.5] apply shall not be considered in determining the application of those sections on and after that effective date."

Administrative Code References

Appointment of treasurers and depositories, see N.J.A.C. 19:25-5.1 et seq.

Library References

Elections \Leftrightarrow 323, 332.

WESTLAW Topic No. 144.

C.J.S. Elections §§ 353, 355.

Notes of Decisions

Reports 2 Validity 1

1. Validity

Provisions of the New Jersey Campaign Contributions and Expenditures Reporting Act which mandated a set of internal procedures which applied to political information organizations as well as campaign financing organizations did not, even if applied solely to plaintiffs' lobbying activities, violate the First Amendment. *American Civil Liberties Union of New Jersey v. New Jersey Election Law Enforcement Commission*, D.C.N.J.1981, 509 F.Supp. 1123.

Strong, compelling public concern in preserving disclosure called for by the Campaign Contributions and Expenditures Reporting Act on part of those public information organizations which are constitutionally regulable called for judicial interpretation which would at the same time protect constitutional rights of

small vulnerable groups that might be inhibited or discouraged from seeking to influence specific legislation by disclosure requirements, rather than facial invalidation of entire public reporting obligations. *New Jersey State Chamber of Commerce v. New Jersey Election Law Enforcement Commission*, 155 N.J.Super. 218, 382 A.2d 670 (A.D.1977), affirmed and modified on other grounds 82 N.J. 57, 411 A.2d 168.

2. Reports

Regardless of whether group was a political committee or a political information organization under Campaign Contributions and Expenditures Reporting Act it was not constitutionally subject to reporting requirements of Act where it expended less than \$750 in connection with election in question. *Ricci v. Senior Citizens & Taxpayers Fed Up With Byrne Democrats*, 166 N.J.Super. 519, 400 A.2d 117 (A.D.1979).

19:44A-10.1. Establishment of legislative leadership committee; appointment of committee members; adoption of bylaws

a. The President of the Senate, the Minority Leader of the Senate, the Speaker of the General Assembly and the Minority Leader of the General Assembly may each establish, authorize the establishment of, or designate one legislative leadership committee for the purpose of receiving contributions and making expenditures to aid or promote the candidacy of any individual, or the candidacy of individuals, for elective office in any election or the passage or defeat of a public question or public questions in any election. The President of the Senate, the Minority Leader of the Senate, the Speaker of the General Assembly and the Minority Leader of the General Assembly, or the person authorized to establish a legislative leadership committee therefor, shall appoint such members and adopt such bylaws for the maintenance of the committee as is deemed appropriate. In the event that the State committee of a political party is designated hereunder to serve as a legislative leadership committee, any receipts and expenditures of that State committee which relate to its activity as a legislative leadership committee shall be accounted for separately from receipts and expenditures relating to the State committee's other activities, and all activity by that State committee in its capacity as a legislative leadership committee shall, for all purposes of this act, be considered as having been conducted as the activities of a separate legislative leadership committee.

b. Within 30 days after such a committee is established, the Election Law Enforcement Commission shall be informed, in writing, of the names and addresses of the chairperson, vice-chairperson, and all other members of the committee. The commission shall be similarly informed of any change in the membership of the committee within three days of the occurrence of the change.

L.1993, c. 65, § 16.

Historical and Statutory Notes

L.1993, c. 65, § 27, approved Mar. 8, 1993, provides:

"This act shall take effect on the 30th day following enactment [Apr. 7, 1993], but amounts of contributions paid or made, or accepted, on or after January 1 of the year in which such enactment oc-

curs and prior to that effective date by any person to whom the provisions of sections 18, 19, or 20 [§§ 19:44A-11.3, 19:44A-11.4 or 19:44A-11.5] apply shall not be considered in determining the application of those sections on and after that effective date."

Library References**Texts and Treatises**

26 Am Jur 2d, Elect § 381.

19:44A-11. Contributions, loans or obligations and expenditures in support of or to defeat candidate or public question; method; personal expenditures; report; anonymous contribution; disposition

No contribution of money or other thing of value, nor obligation therefor, including but not limited to contributions, loans or obligations of a candidate himself or of his family, shall be made or received, and no expenditure of money or other thing of value, nor obligation therefor, including expenditures, loans or obligations of a candidate himself or of his family, shall be made or incurred, directly or indirectly, to support or defeat a candidate in any election, or to aid the passage or defeat of any public question, except through:

a. The duly appointed campaign treasurer or deputy campaign treasurers of the candidate committee or joint candidates committee;

b. The duly appointed organizational treasurer or deputy organizational treasurers of a political party committee or a continuing political committee;

c. The duly appointed campaign treasurer or deputy campaign treasurers of a political committee; or

d. The duly appointed organizational treasurer or deputy organizational treasurer of a legislative leadership committee.

It shall be lawful, however, for any person, not acting in concert with any other person or group, to expend personally from his own funds a sum which is not to be repaid to him for any purpose not prohibited by law, or to contribute his own personal services and personal traveling expenses, to support or defeat a candidate or to aid the passage or defeat of a public question; provided, however, that any person making such expenditure shall be required to report his or her name and mailing address and the amount of all such expenditures and expenses, except personal traveling expenses, if the total of the money so expended, exclusive of such traveling expenses, exceeds \$500, and also, where the person is an individual, to report the individual's occupation and the name and mailing address of the individual's employer, to the Election Law Enforcement Commission at the same time and in the same manner as a political committee subject to the provisions of section 8 of this act.¹

No contribution of money shall be made in currency, except contributions in response to a public solicitation, provided that cumulative currency contributions of up to \$200 may be made to a candidate committee or joint candidates committee, a political committee, a continuing political committee, a legislative leadership committee or a political party committee if the contributor submits

with the currency contribution a written statement of a form as prescribed by the commission, indicating the contributor's name, mailing address and occupation and the amount of the contribution, including the contributor's signature and the name and mailing address of the contributor's employer.

Any anonymous contribution received by a campaign treasurer or deputy campaign treasurer shall not be used or expended, but shall be returned to the donor, if his identity is known, and if no donor is found, the contribution shall escheat to the State.

No person, partnership or association, either directly or through an agent, shall make any loan or advance, the proceeds of which that person, partnership or association knows or has reason to know or believe are intended to be used by the recipient thereof to make a contribution or expenditure, except by check or money order identifying the name, mailing address and occupation or business of the maker of the loan, and, if the maker is an individual, the name and mailing address of that individual's employer; provided, however, that such loans or advances to a single individual, up to a cumulative amount of \$50 in any calendar year, may be made in currency.

L.1973, c. 83, § 11, eff. April 24, 1973. Amended by L.1983, c. 579, § 14, eff. Jan. 17, 1984; L.1993, c. 65, § 6; L.1995, c. 391, § 3, eff. Feb. 1, 1996.

¹ N.J.S.A. § 19:44A-8.

Historical and Statutory Notes

L.1993, c. 65, § 27, approved Mar. 8, 1993, provides:

"This act shall take effect on the 30th day following enactment [Apr. 7, 1993], but amounts of contributions paid or made, or accepted, on or after January 1 of the year in which such enactment occurs and prior to that effective date by

any person to whom the provisions of sections 18, 19, or 20 [§§ 19:44A-11.3, 19:44A-11.4 or 19:44A-11.5] apply shall not be considered in determining the application of those sections on and after that effective date."

Prior Laws: R.S. 19:40-4.

L.1930, c. 187, ¶ 533, p. 922.

Administrative Code References

Contribution limits, see N.J.A.C. 19:25-11.1 et seq.

Contribution reports, see N.J.A.C. 19:25-10.1 et seq.

Library References

Elections Ⓒ317.1, 317.4.

WESTLAW Topic No. 144.

C.J.S. Elections § 329.

United States Supreme Court

Free speech and association, campaign spending limits, political party expenditures independent of candidates, see Col-

orado Republican Campaign Committee v. FEC, 1996, 116 S.Ct. 2309, 135 L.Ed.2d 795.

Notes of Decisions

Anonymous contribution 4
 Expenditures not through committee 5
 Other thing of value 3
 Reports 2
 Validity 1

1. Validity

Section 19:44A-14 (repealed; see, now, this section) and § 19:44A-8 of the New Jersey Campaign Contributions and Expenditures Reporting Act which required disclosure of names of members and contributors and prohibiting anonymous contributions earmarked for lobbying was constitutional. *American Civil Liberties Union of New Jersey v. New Jersey Election Law Enforcement Commission*, D.C.N.J.1981, 509 F.Supp. 1123.

2. Reports

Regardless of whether group was a political committee or a political information organization under Campaign Contributions and Expenditures Reporting Act, it was not constitutionally subject to reporting requirements of Act where it expended less than \$750 in connection with election in question. *Ricci v. Senior Citizens & Taxpayers Fed Up With Byrne Democrats*, 166 N.J.Super. 519, 400 A.2d 117 (A.D.1979).

3. Other thing of value

Local board of education's newsletter which was published within a month of school board election and circulated to every household in the school district and which contained, on front page, photographs and laudatory, noncritical profiles of three members of school board who were running for reelection and which contained nothing about the other six school board members, was a campaign contribution of "other thing of value" within campaign contribution disclosure law [N.J.S.A. 19:44A-11]. *New Jersey Election Law Enforcement Com'n v. Brown*, 206 N.J.Super. 206, 502 A.2d 59 (A.D.1985).

4. Anonymous contribution

"Anonymous contribution" occurs only when candidate or campaign treasurer receives contribution whose source is unknown at time of receipt of contribution, for purposes of this act's proscription against use of anonymous contributions and requirement that anonymous contribution be returned to donor or escheat to state. *New Jersey Election Law Enforcement Com'n v. Citizens to Make Mayor-Council Government Work*, 107 N.J. 380, 526 A.2d 1069 (1987).

Decision requiring contributions to group organized to secure signatures to force recall election of mayor to escheat to state to extent of \$9,390 of contributions whose source could not be identified or explained would be reversed, where record did not permit conclusion as to whether contributions were anonymous at time of contribution or were merely anonymous at time of reporting of contribution sources. *New Jersey Election Law Enforcement Com'n v. Citizens to Make Mayor-Council Government Work*, 107 N.J. 380, 526 A.2d 1069 (1987).

5. Expenditures not through committee

Public funds were improperly used to promote political views and candidacy of incumbent school board members where flyers sent out by school board transcended recitation of factual information and espoused partisan point of view, extolled virtues of current board, derided stewardship of former school board, and accused opponents of spreading lies and distortions; board of education was required to establish procedure whereby board publications pertaining either directly or by reasonable inference to school budget or election of board members were to be reviewed for compliance with law governing publicly funded election literature by full board in consultation with board attorney and to be approved by the board prior to distribution to public. *Schettino v. Ridgefield Bd. of Educ.*, 93 N.J.A.R.2d (EDU) 224 (1993).

19:44A-11.1. Funds or benefits received and payments to determine if individual should become candidate

a. Funds or other benefits received and payments made solely for the purpose of determining whether an individual should become a

candidate are not contributions or expenditures. Activities contemplated under this exemption include, but are not limited to, conducting a poll, telephone calls and travel to determine whether an individual should become a candidate.

The individual shall keep records of all such funds received and payments made.

b. If the individual subsequently becomes a candidate, the funds received and payments made are contributions and expenditures subject to the limitations, prohibitions and requirements of P.L.1973, c. 83 (C. 19:44A-1 et seq.). Such contributions and expenditures shall be reported with the first report filed by the candidate committee or joint candidates committee of the candidate, regardless of the date the funds were received or the payments made.

c. This exemption does not apply to funds received or payments made for general public political advertising; nor does this exemption apply to funds received or payments made for activities designed to amass campaign funds that would be spent after the individual becomes a candidate.

d. In no instance shall permissible activities conducted solely for the purpose of determining whether an individual will become a candidate be confined or limited on the basis of total funds received or payments made for such purpose.

The provisions of this section shall not apply to any candidate who has established and is maintaining a candidate committee or a joint candidates committee pursuant to section 9 of P.L.1973, c. 83 (C. 19:44A-9).

L.1989, c. 4, § 8. Amended by L.1993, c. 65, § 7.

Historical and Statutory Notes

L.1993, c. 65, § 27, approved Mar. 8, 1993, provided:

"This act shall take effect on the 30th day following enactment [Apr. 7, 1993], but amounts of contributions paid or made, or accepted, on or after January 1 of the year in which such enactment occurs and prior to that effective date by any person to whom the provisions of

sections 18, 19, or 20 [§§ 19:44A-11.3, 19:44A-11.4 or 19:44A-11.5] apply shall not be considered in determining the application of those sections on and after that effective date."

Retroactivity and severability of L.1989, c. 4, see Historical Note under § 19:44A-3.

19:44A-11.2. Limitations on use of contributions received by a candidate, candidate committee, joint candidate committee or a legislative leadership committee

a. All contributions received by a candidate, candidate committee, a joint candidates committee or a legislative leadership committee shall be used only for the following purposes:

- (1) the payment of campaign expenses;
- (2) contributions to any charitable organization described in section 170(c) of the Internal Revenue Code of 1954, as amended or modified, or nonprofit organization which is exempt from taxation under section 501(c) of the Internal Revenue Code of 1954;
- (3) transmittal to another candidate, candidate committee, or joint candidates committee, or to a political committee, continuing political committee, legislative leadership committee or political party committee, for the lawful use by such other candidate or committee;
- (4) the payment of the overhead and administrative expenses related to the operation of the candidate committee or joint candidates committee of a candidate or a legislative leadership committee;
- (5) the pro-rata repayment of contributors; or
- (6) the payment of ordinary and necessary expenses of holding public office.

As used in this subsection, "campaign expenses" means any expense incurred or expenditure made by a candidate, candidate committee, joint candidates committee or legislative leadership committee for the purpose of paying for or leasing items or services used in connection with an election campaign, other than those items or services which may reasonably be considered to be for the personal use of the candidate, any person associated with the candidate or any of the members of a legislative leadership committee.

b. No contribution received by a candidate or by the candidate committee or joint candidates committee of a candidate may be used for the payment of the expenses arising from the furnishing, staffing or operation of an office used in connection with that person's official duties as an elected public official.

c. Any funds remaining in the campaign depository of a candidate's candidate committee or joint candidates committee upon the death of the candidate shall be used only for one or more of the purposes established in subsection a. of this section by the committee's organizational treasurer or deputy treasurer or whoever has control of the depository upon the death of the candidate.

L.1993, c. 65, § 17.

Historical and Statutory Notes

L.1993, c. 65, § 27, approved Mar. 8, 1993, provides:

"This act shall take effect on the 30th day following enactment [Apr. 7, 1993], but amounts of contributions paid or made, or accepted, on or after January 1 of the year in which such enactment oc-

curs and prior to that effective date by any person to whom the provisions of sections 18, 19, or 20 [§§ 19:44A-11.3, 19:44A-11.4 or 19:44A-11.5] apply shall not be considered in determining the application of those sections on and after that effective date."

American Law Reports

Power of corporation to make political contribution or expenditure under state law, 79 ALR3d 491.

State regulation of the giving or making of political contributions or ex-

penditures by private individuals, 94 ALR3d 944.

Library References

Elections Ⓒ317.2.

WESTLAW Topic No. 144.

C.J.S. Elections § 329.

Texts and Treatises

26 Am Jur 2d, Elect § 381.

19:44A-11.3. Contributions to candidates; limitations

a. No individual, other than an individual who is a candidate, no corporation of any kind organized and incorporated under the laws of this State or any other state or any country other than the United States, no labor organization of any kind which exists or is constituted for the purpose, in whole or in part, of collective bargaining, or of dealing with employers concerning the grievances, terms or conditions of employment, or of other mutual aid or protection in connection with employment, or any group shall: (1) pay or make any contribution of money or other thing of value to a candidate who has established only a candidate committee, his campaign treasurer, deputy campaign treasurer or candidate committee which in the aggregate exceeds \$1,500 per election, or (2) pay or make any contribution of money or other thing of value to candidates who have established only a joint candidates committee, their campaign treasurer, deputy campaign treasurer, or joint candidates committee, which in the aggregate exceeds \$1,500 per election per candidate, or (3) pay or make any contribution of money or other thing of value to a candidate who has established both a candidate committee and a joint candidates committee, the campaign treasurers, deputy campaign treasurers, or candidate committee or joint candidates committee, which in the aggregate exceeds \$1,500 per election. No candidate who has established only a candidate committee, his campaign treasurer, deputy campaign treasurer or candidate committee shall knowingly accept from an individual, other than an individual who is a candidate, a corporation of any kind organized and incorporated under the laws of this State or any other state or any country other than the United States, a labor organization of any kind which exists or is constituted for the purpose, in whole or in part, of collective bargaining, or of dealing with employers concerning the grievances, terms or conditions of employment, or of other mutual aid or

protection in connection with employment, or any group any contribution of money or other thing of value which in the aggregate exceeds \$1,500 per election, and no candidates who have established only a joint candidates committee, or their campaign treasurer, deputy campaign treasurer, or joint candidates committee, shall knowingly accept from any such source any contribution of money or other thing of value which in the aggregate exceeds \$1,500 per election per candidate, and no candidate who has established both a candidate committee and a joint candidates committee, the campaign treasurers, deputy campaign treasurers, or candidate committee or joint candidates committee shall knowingly accept from any such source any contribution of money or other thing of value which in the aggregate exceeds \$1,500 per election.

b. (1) No political committee or continuing political committee shall: (a) pay or make any contribution of money or other thing of value to a candidate who has established only a candidate committee, his campaign treasurer, deputy campaign treasurer or candidate committee, other than a candidate for nomination for election or for election for the office of Governor, which in the aggregate exceeds \$5,000 per election, or (b) pay or make any contribution of money or other thing of value to candidates who have established only a joint candidates committee, their campaign treasurer or deputy campaign treasurer, or the joint candidates committee, which in the aggregate exceeds \$5,000 per election per candidate, or (c) pay or make any contribution of money or other thing of value to a candidate who has established both a candidate committee and a joint candidates committee, the campaign treasurers, deputy campaign treasurers, or candidate committee or joint candidates committee, which in the aggregate exceeds \$5,000 per election. No candidate who has established only a candidate committee, his campaign treasurer, deputy campaign treasurer or candidate committee, other than a candidate for nomination for election or for election for the office of Governor, shall knowingly accept from any political committee or continuing political committee any contribution of money or other thing of value which in the aggregate exceeds \$5,000 per election, and no candidates who have established only a joint candidates committee, their campaign treasurer, deputy campaign treasurer, or joint candidates committee, shall knowingly accept from any such source any contribution of money or other thing of value which in the aggregate exceeds \$5,000 per election per candidate, and no candidate who has established both a candidate committee and a joint candidates committee, the campaign treasurers, deputy campaign treasurers, or candidate committee or joint candidates committee shall knowingly accept from any such source any contribution of money or other thing of value which in the aggregate exceeds \$5,000 per election.

(2) The limitation upon the knowing acceptance by a candidate, campaign treasurer, deputy campaign treasurer, candidate committee or joint candidates committee of any contribution of money or other thing of value from a political committee or continuing political committee under the provisions of paragraph (1) of this subsection shall also be applicable to the knowing acceptance of any such contribution from the county committee of a political party by a candidate or the campaign treasurer, deputy campaign treasurer, candidate committee or joint candidates committee of a candidate for any elective public office in another county or, in the case of a candidate for nomination for election or for election to the office of member of the Legislature, in a legislative district in which, according to the federal decennial census upon the basis of which legislative districts shall have been established, less than 20% of the population resides within the county of that county committee. In addition, all contributor reporting requirements and other restrictions and regulations applicable to a contribution of money or other thing of value by a political committee or continuing political committee under the provisions of P.L.1973, c. 83 (C. 19:44A-1 et seq.) shall likewise be applicable to the making or payment of such a contribution by such a county committee.

The limitation upon the knowing acceptance by a candidate, campaign treasurer, deputy campaign treasurer, candidate committee or joint candidates committee of any contribution of money or other thing of value from a political committee or continuing political committee under the provisions of paragraph (1) of this subsection, except that the amount of any contribution of money or other thing of value shall be in an amount which in the aggregate does not exceed \$25,000, shall also be applicable to the knowing acceptance of any such contribution from the county committee of a political party by a candidate, or the campaign treasurer, deputy campaign treasurer, candidate committee or joint candidates committee of a candidate, for nomination for election or for election to the office of member of the Legislature in a legislative district in which, according to the federal decennial census upon the basis of which legislative districts shall have been established, at least 20% but less than 40% of the population resides within the county of that county committee. In addition, all contributor reporting requirements and other restrictions and regulations applicable to a contribution of money or other thing of value by a political committee or continuing political committee under the provisions of P.L.1973, c. 83 (C. 19:44A-1 et seq.) shall likewise be applicable to the making or payment of such a contribution by such a county committee.

With respect to the limitations in this paragraph, the Legislature finds and declares that:

(a) Persons making contributions to the county committee of a political party have a right to expect that their money will be used, for the most part, to support candidates for elective office who will most directly represent the interest of that county;

(b) The practice of allowing a county committee to use funds raised with this expectation to make unlimited contributions to candidates for the Legislature who may have a limited, or even nonexistent, connection with that county serves to undermine public confidence in the integrity of the electoral process;

(c) Furthermore, the risk of actual or perceived corruption is raised by the potential for contributors to circumvent limits on contributions to candidates by funnelling money to candidates through county committees;

(d) The State has a compelling interest in preventing the actuality or appearance of corruption and in protecting public confidence in democratic institutions by limiting amounts which a county committee may contribute to legislative candidates whose districts are not located in close proximity to that county; and

(e) It is, therefore, reasonable for the State to promote this compelling interest by limiting the amount a county committee may give to a legislative candidate based upon the degree to which the population of the legislative district overlaps with the population of that county.

c. (1) No candidate who has established only a candidate committee, his campaign treasurer, deputy treasurer or candidate committee shall (a) pay or make any contribution of money or other thing of value to another candidate who has established only a candidate committee, his campaign treasurer, deputy campaign treasurer or candidate committee, other than a candidate for nomination for election or for election for the office of Governor, which in the aggregate exceeds \$5,000 per election, or (b) pay or make any contribution of money or other thing of value to candidates who have established only a joint candidates committee, their campaign treasurer, deputy campaign treasurer, or joint candidates committee, which in the aggregate exceeds \$5,000 per election per candidate in the recipient committee, or (c) pay or make any contribution of money or other thing of value to a candidate who has established both a candidate committee and a joint candidates committee, the campaign treasurers, deputy campaign treasurers, or candidate committee or joint candidates committee, which in the aggregate exceeds \$5,000 per election. No candidate who has established only a candidate committee, his campaign treasurer, deputy campaign treasurer or candidate committee, other than a candidate for nomination for election or for election to the office of the Governor, shall knowingly accept from another candidate who has established only a

candidate committee, his campaign treasurer, deputy campaign treasurer or candidate committee, any contribution of money or other thing of value which in the aggregate exceeds \$5,000 per election, and no candidates who have established only a joint candidates committee, their campaign treasurer, deputy campaign treasurer, or joint candidates committee, shall knowingly accept from any such source any contribution of money or other thing of value which in the aggregate exceeds \$5,000 per election per candidate in the recipient committee, and no candidate who has established both a candidate committee and a joint candidates committee, the campaign treasurers, deputy campaign treasurers, or candidate committee or joint candidates committee, shall knowingly accept from any such source any contribution of money or other thing of value which in the aggregate exceeds \$5,000 per election.

(2) No candidates who have established only a joint candidates committee, their campaign treasurer, deputy campaign treasurer, or joint candidates committee shall (a) pay or make any contribution of money or other thing of value to another candidate who has established only a candidate committee, his campaign treasurer, deputy campaign treasurer or candidate committee, other than a candidate for nomination for election or for election for the office of Governor, which in the aggregate exceeds, on the basis of each candidate in the contributing joint candidates committee, \$5,000 per election, or (b) pay or make any contribution of money or other thing of value to candidates who have established only a joint candidates committee, their campaign treasurer, deputy campaign treasurer or joint candidates committee, which in the aggregate exceeds, on the basis of each candidate in the contributing joint candidates committee, \$5,000 per election per candidate in the recipient joint candidates committee, or (c) pay or make any contribution of money or other thing of value to a candidate who has established both a candidate committee and a joint candidates committee, the campaign treasurers, deputy campaign treasurers or candidate committee or joint candidates committee, which in the aggregate exceeds, on the basis of each candidate in the contributing joint candidates committee, \$5,000 per election. No candidate who has established only a candidate committee, his campaign treasurer, deputy campaign treasurer, or candidate committee, other than a candidate for nomination for election or for election for the office of Governor, shall knowingly accept from other candidates who have established only a joint candidates committee, their campaign treasurer, deputy campaign treasurer or joint candidates committee, any contribution of money or other thing of value which in the aggregate exceeds, on the basis of each candidate in the contributing committee, \$5,000 per election, and no candidates who have established only a joint candidates

committee, their campaign treasurer, deputy campaign treasurer, or joint candidates committee, shall knowingly accept from any such source any contribution of money or other thing of value which in the aggregate exceeds, on the basis of each candidate in the contributing joint candidates committee, \$5,000 per election per candidate in the recipient joint candidates committee, and no candidate who has established both a candidate committee and a joint candidates committee, the campaign treasurers, deputy campaign treasurers, or candidate committee or joint candidates committee, shall knowingly accept from any such source any contribution of money or other thing of value which in the aggregate exceeds, on the basis of each candidate in the contributing joint candidates committee, \$5,000 per election.

(3) No candidate who has established both a candidate committee and a joint candidates committee, the campaign treasurers, deputy campaign treasurers, or candidate committee or joint candidates committee shall (a) pay or make any contribution of money or other thing of value to another candidate who has established only a candidate committee, his campaign treasurer, deputy campaign treasurer or candidate committee, other than a candidate for nomination for election or for election for the office of Governor, which in the aggregate exceeds \$5,000 per election, or (b) pay or make any contribution of money or other thing of value to candidates who have established only a joint candidates committee, their campaign treasurer, deputy campaign treasurer or joint candidates committee, which in the aggregate exceeds \$5,000 per election per candidate in the recipient joint candidates committee, or (c) pay or make any contribution of money or other thing of value to a candidate who has established both a candidate committee and a joint candidates committee, the campaign treasurers, deputy campaign treasurers, or candidate committee or joint candidates committee, which in the aggregate exceeds \$5,000 per election. No candidate who has established only a candidate committee, his campaign treasurer, deputy campaign treasurer, or candidate committee, other than a candidate for nomination for election or for election for the office of Governor, shall knowingly accept from a candidate who has established both a candidate committee and a joint candidates committee, the campaign treasurers, deputy campaign treasurers, or candidate committee or joint candidates committee, any contribution of money or other thing of value which in the aggregate exceeds \$5,000 per election, and no candidates who have established only a joint candidates committee, their campaign treasurer, deputy campaign treasurer, or joint candidates committee, shall knowingly accept from any such source any contribution of money or other thing of value which in the aggregate exceeds \$5,000 per election per candidate in the recipient joint

candidates committee, and no candidate who has established both a candidate committee and a joint candidates committee, the campaign treasurers, deputy campaign treasurers, or candidate committee or joint candidates committee shall knowingly accept from any such source any contribution of money or other thing of value which in the aggregate exceeds \$5,000 per election.

(4) Expenditures by a candidate for nomination for election or for election to the office of member of the Legislature or to an office of a political subdivision of the State, or by the campaign treasurer, deputy treasurer, candidate committee or joint candidates committee of such a candidate, which are made in furtherance of the nomination or election, respectively, of another candidate for the same office in the same legislative district or the same political subdivision shall not be construed to be subject to any limitation under this subsection; for the purposes of this sentence, the offices of member of the State Senate and member of the General Assembly shall be deemed to be the same office.

d. Nothing contained in this section shall be construed to impose any limitation on contributions by a candidate, or by a corporation, 100% of the stock in which is owned by a candidate or the candidate's spouse, child, parent or sibling residing in the same household, to that candidate's campaign.

e. For the purpose of determining the amount of a contribution to be attributed as given to or by each candidate in a joint candidates committee, the amount of the contribution to or by such a committee shall be divided equally among all the candidates in the committee.

L.1993, c. 65, § 18.

Historical and Statutory Notes

L.1993, c. 65, § 27, approved Mar. 8, 1993, provides:

"This act shall take effect on the 30th day following enactment [Apr. 7, 1993], but amounts of contributions paid or made, or accepted, on or after January 1 of the year in which such enactment occurs and prior to that effective date by any person to whom the provisions of sections 18, 19, or 20 [§§ 19:44A-11.3, 19:44A-11.4 or 19:44A-11.5] apply shall not be considered in determining the application of those sections on and after that effective date."

Additional Contributions Allowed if Campaign Liabilities Exceed Assets. L.1993, c. 65, § 25, provides:

"If any candidate or the campaign treasurer or deputy campaign treasurer of a candidate shall, prior to the effective date of this act, have filed with the Election Law Enforcement Commission a report under P.L.1973, c. 83 (C. 19:44A-1 et seq.) which indicates that the outstanding liabilities of the campaign fund of the candidate are in excess of all assets of that campaign fund available to pay those liabilities, the campaign fund may accept amounts of contributions in addition to the amounts permitted under sections 18, 19 and 20 of P.L.1993, c. 65 (C. 19:44A-11.3, 19:44A-11.4 and 19:44A-11.5), provided that the aggregate total of those additional amounts shall not be greater than the amount of the excess so indicated."

Library References

Elections  317.2, 317.3.
 WESTLAW Topic No. 144.
 C.J.S. Elections   329.

United States Supreme Court

Free speech and association, campaign
 spending limits, political party expendi-
 tures independent of candidates, see Col-

orado Republican Campaign Committee
 v. FEC, 1996, 116 S.Ct. 2309, 135
 L.Ed.2d 795.

Notes of Decisions

Evasion of limitations 1

1. Evasion of limitations

Individuals, corporations, businesses
 and continuing political committees may
 not evade restrictions of the Campaign

Contribution and Expenditure Reporting
 Act on the amounts of contributions that
 can be donated by entering into agree-
 ments to funnel monies to a candidate or
 to his or her campaign committee.
 Markwardt v. New Beginnings, 304
 N.J.Super. 522, 701 A.2d 706 (A.D.1997).

19:44A-11.4. Contributions to political party and leadership committee; limitations

a. (1) Except as otherwise provided in paragraph (2) of this subsection, no individual, no corporation of any kind organized and incorporated under the laws of this State or any other state or any country other than the United States, no labor organization of any kind which exists or is constituted for the purpose, in whole or in part, of collective bargaining, or of dealing with employers concerning the grievances, terms or conditions of employment, or of other mutual aid or protection in connection with employment, no political committee, continuing political committee, candidate committee or joint candidates committee or any other group, shall pay or make any contribution of money or other thing of value to the campaign treasurer, deputy treasurer or other representative of the State committee of a political party or the campaign treasurer, deputy campaign treasurer or other representative of any legislative leadership committee, which in the aggregate exceeds \$25,000 per year, or in the case of a joint candidates committee when that is the only committee established by the candidates, \$25,000 per year per candidate in the joint candidates committee, or in the case of a candidate committee and a joint candidates committee when both are established by a candidate, \$25,000 per year from that candidate. No campaign treasurer, deputy campaign treasurer or other representative of the State committee of a political party or campaign treasurer, deputy campaign treasurer or other representative of any legislative leadership committee shall knowingly accept from an individual, a corporation of any kind organized and incorporated under the laws of this State or any other state or any country other than the United

States, a labor organization of any kind which exists or is constituted for the purpose, in whole or in part, of collective bargaining, or of dealing with employers concerning the grievances, terms or conditions of employment, or of other mutual aid or protection in connection with employment, a political committee, a continuing political committee, a candidate committee or a joint candidates committee or any other group, any contribution of money or other thing of value which in the aggregate exceeds \$25,000 per year, or in the case of a joint candidates committee when that is the only committee established by the candidates, \$25,000 per year per candidate in the joint candidates committee, or in the case of a candidate committee and a joint candidates committee when both are established by a candidate, \$25,000 per year from that candidate.

(2) No national committee of a political party shall pay or make any contribution of money or other thing of value to the campaign treasurer, deputy treasurer or other representative of the State committee of a political party which in the aggregate exceeds \$50,000 per year, and no campaign treasurer, deputy campaign treasurer or other representative of the State committee of a political party shall knowingly accept from the national committee of a political party any contribution of money or other thing of value which in the aggregate exceeds \$50,000 per year.

b. No individual, no corporation of any kind organized and incorporated under the laws of this State or any other state or any country other than the United States, no labor organization of any kind which exists or is constituted for the purpose, in whole or in part, of collective bargaining, or of dealing with employers concerning the grievances, terms or conditions of employment, or of other mutual aid or protection in connection with employment, no political committee, continuing political committee, candidate committee or joint candidates committee or any other group, shall pay or make any contribution of money or other thing of value to any county committee of a political party, which in the aggregate exceeds \$25,000 per year, or in the case of a joint candidates committee when that is the only committee established by the candidates, \$25,000 per year per candidate in the joint candidates committee, or in the case of a candidate committee and a joint candidates committee when both are established by a candidate, \$25,000 per year from that candidate. No campaign treasurer, deputy campaign treasurer or other representative of a county committee of a political party shall knowingly accept from an individual, a corporation of any kind organized and incorporated under the laws of this State or any other state or any country other than the United States, a labor organization of any kind which exists or is constituted for the purpose, in whole or in part, of collective bargaining, or of dealing with employers concern-

ing the grievances, terms or conditions of employment, or of other mutual aid or protection in connection with employment, a political committee, a continuing political committee, a candidate committee or a joint candidates committee or any other group, any contribution of money or other thing of value which in the aggregate exceeds \$25,000 per year, or in the case of a joint candidates committee when that is the only committee established by the candidates, \$25,000 per year per candidate in the joint candidates committee, or in the case of a candidate committee and a joint candidates committee when both are established by a candidate, \$25,000 per year from that candidate.

c. No individual, no corporation of any kind organized and incorporated under the laws of this State or any other state or any country other than the United States, no labor organization of any kind which exists or is constituted for the purpose, in whole or in part, of collective bargaining, or of dealing with employers concerning the grievances, terms or conditions of employment, or of other mutual aid or protection in connection with employment, no political committee, continuing political committee, candidate committee or joint candidates committee or any other group shall pay or make any contribution of money or other thing of value to any municipal committee of a political party, which in the aggregate exceeds \$5,000 per year, or in the case of a joint candidates committee when that is the only committee established by the candidates, \$5,000 per year per candidate in the joint candidates committee, or in the case of a candidate committee and a joint candidates committee when both are established by a candidate, \$5,000 per year from that candidate. No campaign treasurer, deputy campaign treasurer or other representative of a municipal committee of a political party shall knowingly accept from an individual, a corporation of any kind organized and incorporated under the laws of this State or any other state or any country other than the United States, a labor organization of any kind which exists or is constituted for the purpose, in whole or in part, of collective bargaining, or of dealing with employers concerning the grievances, terms or conditions of employment, or of other mutual aid or protection in connection with employment, a political committee, a continuing political committee, a candidate committee or a joint candidates committee or any other group, any contribution of money or other thing of value which in the aggregate exceeds \$5,000 per year, or in the case of a joint candidates committee when that is the only committee established by the candidates, \$5,000 per year per candidate in the joint candidates committee, or in the case of a candidate committee and a joint candidates committee when both are established by a candidate, \$5,000 per year from that candidate.

No county committee of a political party in any county shall pay or make any contribution of money or other thing of value to a municipal committee of a political party in a municipality not located in that county which in the aggregate exceeds the amount of aggregate contributions which, under this subsection, a continuing political committee is permitted to pay or make to a municipal committee of a political party. No campaign treasurer, deputy campaign treasurer or other representative of a municipal committee of a political party in any municipality shall knowingly accept from any county committee of a political party in any county other than the county in which the municipality is located any contribution of money or other thing of value which in the aggregate exceeds the amount of contributions permitted to be so paid or made under that subsection.

d. For the purpose of determining the amount of a contribution to be attributed as given by each candidate in a joint candidates committee, the amount of the contribution by such a committee shall be divided equally among all the candidates in the committee.

L.1993, c. 65, § 19.

Historical and Statutory Notes

L.1993, c. 65, § 27, approved Mar. 8, 1993, provides:

"This act shall take effect on the 30th day following enactment [Apr. 7, 1993], but amounts of contributions paid or made, or accepted, on or after January 1 of the year in which such enactment occurs and prior to that effective date by any person to whom the provisions of sections 18, 19, or 20 [§§ 19:44A-11.3, 19:44A-11.4 or 19:44A-11.5] apply shall not be considered in determining the application of those sections on and after that effective date."

Additional Contributions Allowed if Campaign Liabilities Exceed Assets.

L.1993, c. 65, § 25, provides:

"If any candidate or the campaign treasurer or deputy campaign treasurer of a candidate shall, prior to the effective date of this act, have filed with the Election Law Enforcement Commission a report under P.L.1973, c. 83 (C. 19:44A-1 et seq.) which indicates that the outstanding liabilities of the campaign fund of the candidate are in excess of all assets of that campaign fund available to pay those liabilities, the campaign fund may accept amounts of contributions in addition to the amounts permitted under sections 18, 19 and 20 of P.L.1993, c. 65 (C. 19:44A-11.3, 19:44A-11.4 and 19:44A-11.5), provided that the aggregate total of those additional amounts shall not be greater than the amount of the excess so indicated."

Library References

Elections § 317.2, 317.3.
WESTLAW Topic No. 144.
C.J.S. Elections § 329.

19:44A-11.5. Contributions to political committee and continuing political committee; limitations

a. No candidate who has established only a candidate committee, his campaign treasurer, deputy treasurer or candidate committee

shall pay or make any contribution of money or other thing of value to a political committee, other than a political committee which is organized to, or does, aid or promote the passage or defeat of a public question in any election, or a continuing political committee, which in the aggregate exceeds, in the case of such a political committee, \$5,000 per election, or in the case of a continuing political committee, \$5,000 per year, and no candidates who have established only a joint candidates committee, their campaign treasurer, deputy campaign treasurer or joint candidates committee shall pay or make any contribution of money or other thing of value to such a political committee or continuing political committee which in the aggregate exceeds, in the case of such a political committee, \$5,000 per election per candidate in the joint candidates committee, or in the case of a continuing political committee, \$5,000 per year per candidate in the joint candidates committee, and no candidate who has established both a candidate committee and a joint candidates committee shall pay or make any contribution of money or other thing of value which in the aggregate exceeds, in the case of such a political committee, \$5,000 per election from that candidate, or in the case of a continuing political committee, \$5,000 per year from that candidate. No political committee, other than a political committee which is organized to, or does, aid or promote the passage or defeat of a public question in any election, or a continuing political committee, shall knowingly accept from a candidate who has established only a candidate committee, his campaign treasurer, deputy treasurer or candidate committee, any contribution of money or other thing of value which in the aggregate exceeds, in the case of such a political committee, \$5,000 per election, or in the case of a continuing political committee, \$5,000 per year, and no such political committee or continuing political committee shall knowingly accept from candidates who have established only a joint candidates committee, their campaign treasurer, deputy campaign treasurer, or joint candidates committee, any contribution of money or other thing of value which in the aggregate exceeds, in the case of such a political committee, \$5,000 per election per candidate in the joint candidates committee, or in the case of a continuing political committee, \$5,000 per year per candidate in the joint candidates committee, and no such political committee or continuing political committee shall knowingly accept from a candidate who has established both a candidate committee and a joint candidates committee any contribution of money or other thing of value which in the aggregate exceeds, in the case of such a political committee, \$5,000 per election from that candidate, or in the case of a continuing political committee, \$5,000 per year from that candidate. For the purpose of determining the amount of a contribution to be attributed as given by each

candidate in a joint candidates committee, the amount of the contribution by such a committee shall be divided equally among all the candidates in the committee.

b. No political committee, other than a political committee which is organized to, or does, aid or promote the passage or defeat of a public question in any election, and no continuing political committee shall pay or make any contribution of money or other thing of value to another political committee, other than a political committee which is organized to, or does, aid or promote the passage or defeat of a public question in any election, or another continuing political committee which in the aggregate exceeds, in the case of a recipient continuing political committee, \$5,000 per year, or in the case of a recipient political committee, \$5,000 per election. No political committee, other than a political committee which is organized to, or does, aid or promote the passage or defeat of a public question in any election, and no continuing political committee shall knowingly accept from another political committee, other than a political committee which is organized to, or does, aid or promote the passage or defeat of a public question in any election, or another continuing political committee any contribution of money or other thing of value which in the aggregate exceeds, in the case of a recipient continuing political committee, \$5,000 per year, or in the case of a recipient political committee, \$5,000 per election.

L.1993, c. 65, § 20.

Historical and Statutory Notes

L.1993, c. 65, § 27, approved Mar. 8, 1993, provides:

"This act shall take effect on the 30th day following enactment [Apr. 7, 1993], but amounts of contributions paid or made, or accepted, on or after January 1 of the year in which such enactment occurs and prior to that effective date by any person to whom the provisions of sections 18, 19, or 20 [§§ 19:44A-11.3, 19:44A-11.4 or 19:44A-11.5] apply shall not be considered in determining the application of those sections on and after that effective date."

Additional Contributions Allowed if Campaign Liabilities Exceed Assets.

L.1993, c. 65, § 25, provides:

"If any candidate or the campaign treasurer or deputy campaign treasurer of a candidate shall, prior to the effective date of this act, have filed with the Election Law Enforcement Commission a report under P.L.1973, c. 83 (C. 19:44A-1 et seq.) which indicates that the outstanding liabilities of the campaign fund of the candidate are in excess of all assets of that campaign fund available to pay those liabilities, the campaign fund may accept amounts of contributions in addition to the amounts permitted under sections 18, 19 and 20 of P.L.1993, c. 65 (C. 19:44A-11.3, 19:44A-11.4 and 19:44A-11.5), provided that the aggregate total of those additional amounts shall not be greater than the amount of the excess so indicated."

Library References

Elections Ⓒ317.2.
WESTLAW Topic No. 144.
C.J.S. Elections § 329.

19:44A-11.6. Loans for contributions; limitations

Any person, partnership, association, political committee or continuing political committee may make a loan or loans to any person, partnership, association, political committee or continuing political committee with knowledge or reason to know that the prospective recipient of the loan intends to use the proceeds thereof to make a contribution in aid of any candidate or the candidate committee or joint candidates committee of any candidate, provided that, at any time, the aggregate total of the unrepaid portion of all such loans by that lender shall not exceed an amount equal to twice the maximum amount of contributions in the aggregate which, under subsection a. of section 18 of P.L.1993, c. 65 (C. 19:44A-11.3), the lender is permitted to make such a candidate. The provisions of this subsection shall not apply to any bank, savings bank, savings and loan association or credit union, whether chartered by the United States, this State, or any other state or territory of the United States, or by a foreign country.

L.1993, c. 65, § 23.

Historical and Statutory Notes

L.1993, c. 65, § 27, approved Mar. 8, 1993, provides:

"This act shall take effect on the 30th day following enactment [Apr. 7, 1993], but amounts of contributions paid or made, or accepted, on or after January 1 of the year in which such enactment oc-

curs and prior to that effective date by any person to whom the provisions of sections 18, 19, or 20 [§§ 19:44A-11.3, 19:44A-11.4 or 19:44A-11.5] apply shall not be considered in determining the application of those sections on and after that effective date."

Library References

Elections ⇨ 317.2.
WESTLAW Topic No. 144.
C.J.S. Elections § 329.

19:44A-11.7. Campaign-related payments required to be made by check

Any payment to any individual which is related to efforts by or on behalf of a candidate, candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, or legislative leadership committee in aid of or to promote the candidacy of an individual for nomination for election or for election to elective public office or the passage or defeat of a public question, or to efforts directly to promote or encourage the participation of voters in an election, including but not limited to payments made to campaign workers and payments to other individuals which are intended for further transfer to election-day workers

or other ultimate payees, shall be made by check payable to such named individual, and no such payment shall be made in currency.

Any payment to a candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, or legislative leadership committee, or to any other person, association or group, by a candidate or any such committee or by any other person, association or group, which payment is related to efforts in aid of or to promote the candidacy of an individual for nomination for election or for election to elective public office or the passage or defeat of a public question, or to efforts directly to promote or encourage the participation of voters in an election, shall be made by check payable to the named committee, person, association, or group, and no such payment shall be made in currency.

As used in this section, "candidate", "candidate committee", "joint candidates committee", "political committee", "continuing political committee", "political party committee", and "legislative leadership committee" shall have the meanings prescribed for those respective terms by section 3 of P.L.1973, c. 83 (C. 19:44A-3).

L.1993, c. 370, § 1, eff. Jan. 7, 1994.

Historical and Statutory Notes

Title of Act:	an election and supplementing chapter
An Act concerning certain payments	34 of Title 19 of the Revised Statutes.
made in connection with the conduct of	L.1993, c. 370.

Library References

Elections ⇨317.2.
 WESTLAW Topic No. 144.
 C.J.S. Elections § 329.

19:44A-12. Funds received by treasurer; record; deposit; transfers

An organizational or campaign treasurer or deputy organizational or campaign treasurer of a candidate committee or joint candidates committee, a political committee, a continuing political committee, a political party committee or a legislative leadership committee shall make a written record of all funds which he receives as contributions to the candidate committee, joint candidates committee, political committee, continuing political committee, political party committee or legislative leadership committee, including in that record the name and mailing address of the contributor, the amount and date of the contribution, and where the contributor is an individual, the occupation of the individual and the name and mailing address of the

individual's employer. The organizational or campaign treasurer shall retain that record for a period of not less than four years. All funds so received shall be deposited by the campaign or organizational treasurer or deputy campaign or organizational treasurer in a campaign depository of the candidate committee or joint candidates committee, the continuing political committee, political committee, political party committee or legislative leadership committee no later than the tenth calendar day following receipt of such funds; except that any such treasurer or deputy treasurer may, when authorized by the candidate, candidates or committee of which he is the campaign or organizational treasurer or deputy campaign or organizational treasurer, transfer any such funds to the duly designated campaign or organizational treasurer or deputy campaign or organizational treasurer of another candidate or committee, for inclusion in the campaign depository thereof, without first so depositing them; provided, however, that the amount so transferred shall not be in excess of the amount that may be contributed by one candidate to another candidate in an election pursuant to section 18 of P.L.1993, c. 65 (C. 19:44A-11.3), but this proviso shall not be construed to prohibit a county or municipal committee of a political party from making a contribution or contributions, or from transferring funds as hereinabove authorized, to any candidate, candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, or legislative leadership committee. A record of all nondeposited funds so transferred shall be attached to the statement required under this section, identifying them as to source and amount in the same manner as deposited funds.

L.1973, c. 83, § 12, eff. April 24, 1973. Amended by L.1983, c. 579, § 15, eff. Jan. 17, 1984; L.1993, c. 65, § 8; L.1995, c. 178, § 1, eff. July 11, 1995.

Historical and Statutory Notes

L.1993, c. 65, § 27, approved Mar. 8, 1993, provides:

"This act shall take effect on the 30th day following enactment [Apr. 7, 1993], but amounts of contributions paid or made, or accepted, on or after January 1 of the year in which such enactment occurs and prior to that effective date by

any person to whom the provisions of sections 18, 19, or 20 [§§ 19:44A-11.3, 19:44A-11.4 or 19:44A-11.5] apply shall not be considered in determining the application of those sections on and after that effective date."

Prior Laws: R.S. 19:41-2.

L.1930, c. 187, ¶ 535, p. 922.

Administrative Code References

Deposit of funds, see N.J.A.C. 19:25-6.1 et seq.

Library References

Elections ⇨ 317.4.

WESTLAW Topic No. 144.

C.J.S. Elections § 329.

Notes of Decisions

Reports 1

1. Reports

Regardless of whether group was a political committee or a political information organization under Campaign Con-

tributions and Expenditures Reporting Act, it was not constitutionally subject to reporting requirements of Act where it expended less than \$750 in connection with election in question. *Ricci v. Senior Citizens & Taxpayers Fed Up With Byrne Democrats*, 166 N.J.Super. 519, 400 A.2d 117 (A.D.1979).

19:44A-13 to 19:44A-15. Repealed by L.1983, c. 579, § 25, eff. Jan. 17, 1984

Historical and Statutory Notes

The repealed sections, added by L.1973, c. 83, §§ 13 to 15, amended by L.1981, c. 151, §§ 5, 6, related to political information organizations' funds. See, now, §§ 19:44A-10, 19:44A-11, and 19:44A-12 respectively.

19:44A-16. Campaign treasurer; reports

a. The campaign treasurer of each candidate committee and joint candidates committee shall make a full cumulative report, upon a form prescribed by the Election Law Enforcement Commission, of all contributions in the form of moneys, loans, paid personal services or other things of value, made to him or to the deputy campaign treasurers of the candidate committee or joint candidates committee, and all expenditures paid out of the election fund of the candidate or candidates, during the period ending with the second day preceding the date of the cumulative report and beginning on the date of the first of those contributions, the date of the first of those expenditures, or the date of the appointment of the campaign treasurer, whichever occurred first. The report shall also contain the name and mailing address of each person or group from whom moneys, loans, paid personal services or other things of value were contributed after the second day preceding the date of the previous cumulative report and the amount contributed by each person or group, and where an individual has made such contributions, the report shall indicate the occupation of the individual and the name and mailing address of the individual's employer. In the case of any loan reported pursuant to this section, the report shall further contain the name and mailing address of each person who cosigns such loan, the occupation of the person and the name and mailing address of the person's employer. If no moneys, loans, paid personal services or other things of value were contributed, the report shall so indicate, and if no expenditures were paid or incurred, the report shall likewise so indicate. The campaign treasurer and the candidate or several candidates shall certify the correctness of the report.

b. During the period between the appointment of the campaign treasurer and the election with respect to which contributions are accepted or expenditures made by him, the campaign treasurer shall file his cumulative campaign report (1) on the 29th day preceding the election, and (2) on the 11th day preceding the election; and after the election he shall file his report on the 20th day following such election. Concurrent with the report filed on the 20th day following an election, or at any time thereafter, the campaign treasurer of a candidate committee or joint candidates committee may certify to the Election Law Enforcement Commission that the election fund of such candidate committee or joint candidates committee has wound up its business and been dissolved, or that business regarding the late election has been wound up but the candidate committee or joint candidates committee will continue for the deposit and use of contributions in accordance with section 17 of P.L.1993, c. 65 (C. 19:44A-11.2). Certification shall be accompanied by a final accounting of such election fund, or of the transactions relating to such election, including the final disposition of any balance remaining in such fund at the time of dissolution or the arrangements which have been made for the discharge of any obligations remaining unpaid at the time of dissolution. Until the candidate committee or joint candidates committee is dissolved, each such treasurer shall continue to file reports in the form and manner herein prescribed.

The Election Law Enforcement Commission shall promulgate regulations providing for the termination of post-election campaign reporting requirements applicable to political committees, candidate committees and joint candidates committees. The requirements to file quarterly reports after the first post-election report may be waived by the commission, notwithstanding that the certification has not been filed, if the commission determines under any regulations so promulgated that the outstanding obligations of the political committee, candidate committee or joint candidates committee do not exceed 10% of the expenditures of the campaign fund with respect to the election or \$1,000.00, whichever is less, or are likely to be discharged or forgiven.

A candidate committee or joint candidates committee shall file with the Election Law Enforcement Commission, not later than April 15, July 15, October 15 of each calendar year in which the candidate or candidates in control of the committee does or do not run for election or reelection and January 15 of each calendar year in which the candidate or candidates does or do run for election or reelection, a cumulative quarterly report of all moneys, loans, paid personal services or other things of value contributed to it or to the candidate or candidates during the period ending on the 15th day preceding that date and commencing on January 1 of that calendar year or, in

the case of the cumulative quarterly report to be filed not later than January 15, of the previous calendar year, and all expenditures made, incurred, or authorized by it or the candidate or candidates during the period, whether or not such expenditures were made, incurred or authorized in furtherance of the election or defeat of any candidate, or in aid of the passage or defeat of any public question or to provide information on any candidate or public question. The commission may by regulation require any such candidate committee or joint candidates committee to file during any calendar year one or more additional cumulative reports of such contributions received and expenditures made as may be necessary to ensure that no more than five months shall elapse between the last day of a period covered by one such report and the last day of the period covered by the next such report.

The commission, on any form it shall prescribe for the reporting of expenditures by a candidate committee or joint candidates committee, shall provide for the grouping together of all expenditures under the category of "campaign expenses" under paragraph (1) of subsection a. of section 17 of P.L.1993, c. 65 (C. 19:44A-11.2), identified as such, and for the grouping together, separately, of all other expenditures under the categories prescribed by paragraphs (2) through (6) of that subsection. The cumulative quarterly report due on April 15 in a year immediately after the year in which the candidate or candidates does or do run for election or reelection shall contain a report of all of the contributions received and expenditures made by the candidate or candidates since the 18th day after that election.

The cumulative quarterly report shall contain the name and mailing address of each person or group from whom moneys, loans, paid personal services or other things of value have been contributed and the amount contributed by each person or group, and where an individual has made such contributions, the report shall indicate the occupation of the individual and the name and mailing address of the individual's employer. In the case of any loan reported pursuant to this section, the report shall contain the name and address of each person who cosigns such loan, and where an individual has cosigned such loans, the report shall indicate the occupation of the individual and the name and mailing address of his employer. The report shall also contain the name and address of each person, firm or organization to whom expenditures have been paid and the amount and purpose of each such expenditure. The treasurer of the candidate committee or joint candidates committee and the candidate or candidates shall certify to the correctness of each cumulative quarterly report.

c. In the case of an election of a candidate for an office elected by a municipal or countywide constituency or a school district a duplicate copy of the campaign treasurer's report, duly certified, shall be filed at the same time with the county clerk of the county in which the candidate resides and the county clerk shall retain a written record of that filing for a period of not less than four years following the date of the election.

d. There shall be no obligation to file the reports required by this section on behalf of a candidate if such candidate files with the Election Law Enforcement Commission a sworn statement to the effect that the total amount to be expended in behalf of his candidacy by the candidate committee, by any political party committee, by any political committee, or by any person shall not in the aggregate exceed \$2,000.00 or \$4,000 for any joint candidates committee containing two candidates or \$6,000 for any joint candidates committee containing three or more candidates. The sworn statement may be submitted at the time when the name and address of the campaign treasurer and depository is filed with the Election Law Enforcement Commission, provided that in any case the sworn statement is filed no later than the 29th day before an election. If a candidate who has filed such a sworn statement receives contributions from any one source aggregating more than \$200 he shall forthwith make report of the same, including the name and mailing address of the source and the aggregate total of contributions therefrom, and where the source is an individual, the occupation of the individual and the name and mailing address of the individual's employer, to the Election Law Enforcement Commission.

e. There shall be no obligation imposed upon a candidate seeking election to a public office of a school district to file either the reports required under subsection b. of this section or the sworn statement referred to in subsection d. of this section, if the total amount expended and to be expended in behalf of his candidacy by the candidate committee, any political committee, any continuing political committee, or a political party committee or by any person, does not in the aggregate exceed \$2,000.00 per election or \$4,000 for any joint candidates committee containing two candidates or \$6,000 for any joint candidates committee containing three or more candidates; provided, that if such candidate receives contributions from any one source aggregating more than \$200, he shall forthwith make a report of the same, including the name and mailing address of the source, the aggregate total of contributions therefrom, and where the source is an individual, the occupation of the individual and the name and mailing address of the individual's employer, to the commission.

f. In any report filed pursuant to the provisions of this section, the names and addresses of contributors whose contributions during the period covered by the report did not exceed \$200 may be excluded; provided, however, that (1) such exclusion is unlawful if any person responsible for the preparation or filing of the report knew that such exclusion was made with respect to any person whose total contributions relating to the same election and made to the reporting candidate or to an allied campaign organization or organizations aggregate, in combination with the total contributions in respect of which such exclusion is made, more than \$200, and (2) any person who knowingly prepares, assists in preparing, files or acquiesces in the filing of any report from which the identity of any contributor has been excluded contrary to the provisions of this section is subject to the provisions of section 21 of this act,¹ but (3) nothing in this proviso shall be construed as requiring any candidate committee or joint candidates committee reporting pursuant to this act to report the amounts, dates or other circumstantial data regarding contributions made to any other candidate committee, joint candidates committee, political committee, continuing political committee, political party committee or legislative leadership committee.

g. Any report filed pursuant to the provisions of this section shall include an itemized accounting of all receipts and expenditures relative to any testimonial affair held since the date of the most recent report filed, which accounting shall include the name and mailing address of each contributor in excess of \$200 to such testimonial affair and the amount contributed by each; in the case of any individual contributor, the occupation of the individual and the name and mailing address of the individual's employer; the expenses incurred; and the disposition of the proceeds of such testimonial affair.

h. (Deleted by amendment, P.L.1993, c. 65.)

i. Each campaign treasurer of a candidate committee or joint candidates committee shall file written notice with the commission of a contribution in excess of \$500 received during the period between the 13th day prior to the election and the date of the election. The notice shall be filed in writing or by telegram within 48 hours of the receipt of the contribution and shall set forth the amount and date of the contribution, the name and mailing address of the contributor, and where the contributor is an individual, the occupation of the individual and the name and mailing address of the individual's employer.

L.1973, c. 83, § 16, eff. April 24, 1973. Amended by L.1975, c. 11, § 1, eff. Feb. 6, 1975; L.1981, c. 337, § 2, eff. Jan. 1, 1982; L.1983, c. 579, § 16, eff. Jan. 17, 1984; L.1993, c. 65, § 9.

¹ N.J.S.A. § 19:44A-21.

Historical and Statutory Notes

L.1993, c. 65, § 27, approved Mar. 8, 1993, provided:

"This act shall take effect on the 30th day following enactment [Apr. 7, 1993], but amounts of contributions paid or made, or accepted, on or after January 1 of the year in which such enactment occurs and prior to that effective date by any person to whom the provisions of sections 18, 19, or 20 [§§ 19:44A-11.3,

19:44A-11.4 or 19:44A-11.5] apply shall not be considered in determining the application of those sections on and after that effective date."

Prior Laws: R.S. 19:44-1, 19:44-2, 19:44-6.

L.1930, c. 187, §§ 546, 547, 551, pp. 928 to 932, 935, amended by L.1931, c. 374, §§ 25, 26, pp. 965 to 969.

Library References

Elections ¶317.4.

WESTLAW Topic No. 144.

C.J.S. Elections § 329.

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Candidate's disclosure 5

Contributions 2, 3

In general 2

Value 3

Political committees 4

Validity 1

Value, contributions 3

1. Validity

Strong, compelling public concern in preserving disclosure called for by the Campaign Contributions and Expenditures Reporting Act on part of those public information organizations which are constitutionally regulable called for judicial interpretation which would at the same time protect constitutional rights of small vulnerable groups that might be inhibited or discouraged from seeking to influence specific legislation by disclosure requirements, rather than facial invalidation of entire public reporting obligations. New Jersey State Chamber of Commerce v. New Jersey Election Law Enforcement Commission, 155 N.J.Super. 218, 382 A.2d 670 (A.D.1977), affirmed and modified on other grounds 82 N.J. 57, 411 A.2d 168.

Although judgment of the trial court invalidated provisions of Campaign Contributions and Expenditures Reporting Act as to "political committees" as well as to political information organizations, holding as to the former was not sought

nor defended on appeal and thus, in light of limited issues litigated, inclusion of political committees in determination was improper and would be set aside. New Jersey State Chamber of Commerce v. New Jersey Election Law Enforcement Commission, 155 N.J.Super. 218, 382 A.2d 670 (A.D.1977), affirmed and modified on other grounds 82 N.J. 57, 411 A.2d 168.

2. Contributions—In general

Publication and distribution of newsletter, drafted and signed by state assembly candidate and ostensibly sent by utilities authority of which he was chairman, to customers and residents of area serviced by that authority who were also his constituents, constituted an "other thing of value" contributed to his campaign, which he was required to report under Campaign Contributions and Expenditures Reporting Act. Dawes v. Salkind, 156 N.J.Super. 195, 383 A.2d 743 (A.D. 1978).

3. — Value, contributions

Evidence of printing and mailing costs for newsletters supported finding that coverage, in local board of education's newsletter, on behalf of three school board members running for reelection had fair market value of more than \$100, the reporting minimum under N.J.S.A. 19:44A-16, subd. e. New Jersey Election

Note 3

Law Enforcement Com'n v. Brown, 206 N.J.Super. 206, 502 A.2d 59 (A.D.1985).

4. Political committees

Ruling that group organized to secure signatures to force recall election of mayor was "political committee" within meaning of this act so as to subject group to reporting requirements of the act should not have been restricted to prospective application, although decision was one of first impression, given that group could not reasonably have assumed it had no reporting obligation under comprehensive election financing law disclosure scheme and that group was informed by Election Law Enforcement Commission prior to recall election that it was required to file pre and postelection reports, but failed to timely comply with its statutory obligations; thus, group could not avoid liability for civil penalties assessed by Commission for violation of statutory requirements. *New Jersey Election Law Enforcement Com'n v. Citizens to Make Mayor-Council Government Work*, 107 N.J. 380, 526 A.2d 1069 (1987).

Application of reporting requirements of New Jersey Campaign Contributions and Expenditures Reporting Act [N.J.S.A. 19:44A-1 et seq., 19:44A-8, 19:44A-16] to group organized to secure signatures to force recall election of mayor, did not

violate members' First Amendment rights. *New Jersey Election Law Enforcement Com'n v. Citizens To Make Mayor-Council Government Work*, 208 N.J.Super. 583, 506 A.2d 773 (A.D.1986), certification granted 104 N.J. 442, 517 A.2d 432, affirmed in part, reversed in part on other grounds 107 N.J. 380, 526 A.2d 1069.

Candidates and treasurer were subject to imposition of a financial penalty for failure to file campaign financing reports in a timely manner, even though there was no evidence of bad faith, where the required reports were filed under the name "Litvack-Potter Campaign Committee" rather than under the individual names of the candidates, and where, because other forms designating this Committee as agent for the candidates were received late, the information in the finance reports was not available to the public before the election. *New Jersey Election Law Enforcement Commission v. Litvak*, 12 N.J.A.R. 558 (1989).

5. Candidate's disclosure

A candidate who withdrew from the election, but not from the ballot, was required to file campaign disclosure forms. *Election Law Enforcement Com'n v. Williams*, 93 N.J.A.R.2d (ELE) 4 (1993).

19:44A-17. Repealed by L.1983, c. 579, § 25, eff. Jan. 17, 1984

Historical and Statutory Notes

The repealed section, added by L.1973, c. 83, § 17, derived from § 19:44-5, related to filing of statements filed with depositories with the election law enforcement commission.

See, now, § 19:44A-16.

19:44A-18. Post-election contributions, expenditures, testimonial affairs or public solicitations; reports

If any former candidate or any political committee or any person or association of persons in behalf of such political committee or former candidate shall receive any contributions or make any expenditures with relation to any election after the date set in section 16 of this act¹ for the final report subsequent to such election, or shall conduct any testimonial affair or public solicitation for the purpose of raising funds to cover any part of the expenses of a candidate or political committee or organization in such election, all such contri-

butions, expenditures, testimonial affairs or public solicitations shall be reported to the Election Law Enforcement Commission by the person or persons receiving such contributions or making such expenditures or conducting such testimonial affairs or public solicitations. Such report shall be made by any person receiving any such contribution or contributions, or making any such expenditure or expenditures, which in the aggregate total more than \$100.00, or conducting any testimonial affair or public solicitation of which the net proceeds exceed \$100.00; and shall be made within 20 days from the date upon which the aggregate of such contributions, expenditures or proceeds exceed \$100.00 for the period commencing with the 19th day following such election or with the date upon which any previous report was made pursuant to this section, whichever is sooner. Such report shall be made in the same form and shall contain the same detail prescribed for any other report made pursuant to section 8 or 16 of this act.²

L.1973, c. 83, § 18, eff. April 24, 1973. Amended by L.1983, c. 579, § 17, eff. Jan. 17, 1984.

¹ N.J.S.A. § 19:44A-16.

² N.J.S.A. § 19:44A-8 or 19:44A-16.

Administrative Code References

Post-election contributions, post-election payment of expenses, see N.J.A.C. 19:25-16.33.

Reporting of expenditures, independent expenditures, see N.J.A.C. 19:25-12.1 et seq.

Library References

Elections ⇨ 317.4.

WESTLAW Topic No. 144.

C.J.S. Elections § 329.

19:44A-18.1. Contributions for gubernatorial inaugural fund-raising event; limitations; report

a. No person, candidate or political committee, otherwise eligible to make political contributions, shall make any contribution or contributions for the purpose of any gubernatorial inaugural fund-raising event or events in the aggregate in excess of \$500.

b. For the purposes of the limitation in subsection a. of this section the term "gubernatorial inaugural fund-raising event" means any event or events held between the date of the general election for the office of Governor and a date 15 days after the date of the inauguration of the Governor, whether the event is sponsored by the inaugural committee, the State political party committee representing the party of the Governor-elect, or any other person or persons,

and at which the Governor-elect is a prominent participant or for which solicitations of contributions include the name of the Governor-elect in prominent display; except that this definition shall not apply to an event sponsored by a religious, charitable, benevolent, scientific, artistic or educational nonprofit institution as long as any proceeds from the event will not be controlled by the Governor-elect or any political committee or political party committee, and the proceeds will not be contributed to the Governor-elect, the candidacy of the Governor-elect, a political committee or political party committee.

c. The person or committee sponsoring the event shall make a full report of all contributions and expenditures with respect to the event within 45 days following the event in accordance with the provisions of this act.

L.1980, c. 74, § 17, eff. July 23, 1980. Amended by L.1981, c. 521, § 1, eff. Jan. 12, 1982; L.1989, c. 4, § 4.

Historical and Statutory Notes

Retroactivity and severability of L.1989, c. 4, see Historical Note under § 19:44A-3.

Statement: Introductory Assembly, Committee statement to Senate, No. 1176—L.1980, c. 74, see § 19:44A-3.

Title of Act:

An Act concerning public financing of gubernatorial election campaigns amend-

ing and supplementing P.L.1973, c. 83, amending N.J.S. 54A:9-25.1 and P.L. 1974, c. 26, and repealing § 6 of P.L. 1974, c. 26. L.1980, c. 74.

Library References

Elections ⊕317.1, 317.4.
WESTLAW Topic No. 144.
C.J.S. Elections § 329.

19:44A-19. Public solicitations; reports

a. No person shall conduct any public solicitation as defined in this act except (1) upon written authorization of the campaign or organizational treasurer of the candidate committee or joint candidates committee, political committee, continuing political committee, political party committee or legislative leadership committee on whose behalf such solicitation is conducted, or (2) in accordance with the provisions of subsection c. of this section. A person with such written authorization may employ and accept the services of others as solicitors, and shall be responsible for reporting to the treasurer the information required under subsection b. of this section and for delivery to the treasurer the net proceeds of such solicitation

in compliance with section 11 of this act.¹ A contribution made through donation or purchase in response to a public solicitation conducted pursuant to written authorization of a treasurer shall be deemed to have been made through such treasurer.

b. Whenever a public solicitation has been authorized by a treasurer during a period covered by a report required to be filed under sections 8 and 16 of this act,² there shall be filed with such report and as a part thereof an itemized report on any such solicitation of which the net proceeds exceed \$200, in such form and detail as required by the rules of the Election Law Enforcement Commission, which report shall include:

(1) The name and mailing address of the person authorized to conduct such solicitation, the method of solicitation and, where the person is an individual, the occupation of the individual and the name and mailing address of the individual's employer;

(2) The gross receipts and expenses involved in the solicitation including the actual amount paid for any items purchased for resale in connection with the solicitation, or, if such items or any portion of the cost thereof was donated, the estimated actual value thereof and the actual amount paid therefor, and the names and addresses of any such donors. If it is not practicable for such itemized report to be completed in time to be included with the report due under sections 8 and 16 of this act for the period during which such solicitation was held, then such itemized report may be omitted from said report and if so omitted shall be included in the report for the next succeeding period.

c. Notwithstanding the provisions of subsection b. of this section, it shall be lawful for any natural person, not acting in concert with any other person or group, to make personally a public solicitation the entire proceeds of which, without deduction for the expenses of solicitation, are to be expended by him personally or under his personal direction to finance any lawful activity in support of or opposition to any candidate or public question or to provide political information on any candidate or public question or to seek to influence the content, introduction, passage or defeat of legislation; provided, however, that any individual making such solicitation who receives gross contributions exceeding \$200 in respect to activities relating to any one election shall be required to make a report stating (1) the amount so collected, (2) the method of solicitation, (3) the purpose or purposes for which the funds so collected were expended and the amount expended for each such purpose and (4) the individual's name and mailing address, the individual's occupation and the name and mailing address of the individual's employer.

Such report shall be made

to the Election Law Enforcement Commission at the same time and in the same manner as a political committee, continuing political committee, political party committee or a legislative leadership committee subject to the provisions of section 8 of this act.

d. Contributions or purchases made in response to a public solicitation conducted in conformity with the requirements and conditions of this act shall not be deemed anonymous within the meaning of sections 11 and 20 of this act.³

e. No person contributing in good faith to a public solicitation not, duly authorized in compliance with the provisions of this act shall be liable to any penalty under this act by reason of having made such contribution.

L.1973, c. 83, § 19, eff. April 24, 1973. Amended by L.1983, c. 579, § 18, eff. Jan. 17, 1984; L.1993, c. 65, § 10.

¹ N.J.S.A. § 19:44A-11.

² N.J.S.A. §§ 19:44A-8, 19:44A-16.

³ N.J.S.A. § 19:44A-20.

Historical and Statutory Notes

L.1993, c. 65, § 27, approved Mar. 8, 1993, provides:

"This act shall take effect on the 30th day following enactment [Apr. 7, 1993], but amounts of contributions paid or made, or accepted, on or after January 1 of the year in which such enactment oc-

curs and prior to that effective date by any person to whom the provisions of sections 18, 19, or 20 [§§ 19:44A-11.3, 19:44A-11.4 or 19:44A-11.5] apply shall not be considered in determining the application of those sections on and after that effective date."

American Law Reports

Power of corporation to make political contribution or expenditure under state law, 79 ALR3d 491.

State regulation of the giving or making of political contributions or ex-

penditures by private individuals, 94 ALR3d 944.

Library References

Elections Ⓒ317.4.

WESTLAW Topic No. 144.

C.J.S. Elections § 329.

Texts and Treatises

26 Am Jur 2d, Elections § 381.

19:44A-20. Contributions or expenditures in fictitious name, in name of another or anonymously; solicitation, acceptance or donation; prohibition

No contribution of money or other thing of value, nor obligation therefor, shall be made, and no expenditure of money or other thing of value, nor obligation therefor, shall be made or incurred whether anonymously, in a fictitious name, or by one person or group in the name of another, to support or defeat a candidate in an election or to aid the passage or defeat of any public question or to provide political information on any candidate or public question or to seek to influence the content, introduction, passage or defeat of legislation.

No individual, either alone or jointly with one or more other individuals, and no corporation, partnership, membership organization or other incorporated or unincorporated association shall loan or advance to any individual, group of individuals, corporation, partnership, membership organization or other incorporated or unincorporated association any money or other thing of value expressly for the purpose of inducing the recipient thereof, or any other individual, group, corporation, partnership, organization or association, to make a contribution, either directly or indirectly, of money or other thing of value to a candidate or the candidate committee or joint candidates committee of a candidate.

No person shall contribute, or purport to contribute, to any candidate, candidate committee or joint candidates committee, political committee, continuing political committee, political party committee or legislative leadership committee funds or property which does not actually belong to him and is not in his full custody and control; which has been given or furnished to him by any other person or group for the purpose of making a contribution thereof, except in the case of group contributions by persons who are members of the contributing group; or which has been loaned or advanced expressly for the purpose of inducing the making of a contribution to a candidate, candidate committee or joint candidates committee.

No treasurer, candidate or member of a candidate committee, joint candidates committee, political committee, continuing political committee, political party committee or legislative leadership committee shall solicit or knowingly accept, agree to accept or concur in or abet the solicitation or acceptance of any contribution contrary to the provisions of this section.

L.1973, c. 83, § 20, eff. April 24, 1973. Amended by L.1983, c. 579, § 19, eff. Jan. 17, 1984; L.1993, c. 65, § 11.

Historical and Statutory Notes

L.1993, c. 65, § 27, approved Mar. 8, 1993, provided:

"This act shall take effect on the 30th day following enactment [Apr. 7, 1993], but amounts of contributions paid or made, or accepted, on or after January 1 of the year in which such enactment oc-

curs and prior to that effective date by any person to whom the provisions of sections 18, 19, or 20 [§§ 19:44A-11.3, 19:44A-11.4 or 19:44A-11.5] apply shall not be considered in determining the application of those sections on and after that effective date."

Library References

Elections ⇐ 317.1.

WESTLAW Topic No. 144.

C.J.S. Elections § 329.

Notes of Decisions

Anonymous contribution 1

1. Anonymous contribution

"Anonymous contribution" occurs only when candidate or campaign treasurer receives contribution whose source is unknown at time of receipt of contribution, for purposes of this act's proscription against use of anonymous contributions and requirement that anonymous contribution be returned to donor or escheat to state. *New Jersey Election Law Enforcement Com'n v. Citizens to Make Mayor-Council Government Work*, 107 N.J. 380, 526 A.2d 1069 (1987).

Decision requiring contributions to group organized to secure signatures to force recall election of mayor to escheat to state to extent of \$9,390 of contributions whose source could not be identified or explained would be reversed, where record did not permit conclusion as to whether contributions were anonymous at time of contribution or were merely anonymous at time of reporting of contribution sources. *New Jersey Election Law Enforcement Com'n v. Citizens to Make Mayor-Council Government Work*, 107 N.J. 380, 526 A.2d 1069 (1987).

19:44A-20.1. Corporations and labor organizations prohibited from making contribution through employees; penalties

a. No corporation or labor organization of any kind shall provide to any of its officers, directors, attorneys, agents or other employees any additional increment of salary, bonus or monetary remuneration of any kind which, in whole or in part, is intended by that corporation or labor organization to be used for the express purpose of paying or making a contribution, either directly or indirectly, of money or other thing of value to any candidate, candidate committee, joint candidates committee, political party committee, legislative leadership committee, political committee or continuing political committee.

Any corporation or labor organization of any kind found to be in violation of this subsection shall, in addition to any other penalty provided by law, be liable to a penalty of not more than \$3,000 for the first offense and not more than \$6,000 for the second and each

subsequent offense. Any officer, director, attorney, agent or other employee of a corporation or labor organization that provides to another employee of that corporation or labor organization any additional increment of salary, bonus or monetary remuneration of any kind for the purpose described in this subsection is guilty of a crime of the fourth degree.

b. No officer, director, attorney, agent or other employee of a corporation or labor organization of any kind shall use any part of any additional increment of salary, bonus or monetary remuneration of any kind which, in whole or in part, is intended by that corporation or labor organization to be used for the express and intentional purpose of paying or making a contribution, either directly or indirectly, of money or other thing of value to a candidate, candidate committee, joint candidates committee, political party committee, legislative leadership committee, political committee or continuing political committee by a corporation or labor organization of any kind, for the purpose of paying or making a contribution, either directly or indirectly, of money or other thing of value to a candidate, candidate committee, joint candidates committee, political party committee, legislative leadership committee, political committee or continuing political committee.

Any officer, director, attorney, agent or other employee of a corporation or labor organization of any kind found to be in violation of this subsection of this section is guilty of a crime of the fourth degree.

L.1993, c. 65, § 15.

Historical and Statutory Notes

L.1993, c. 65, § 27, approved Mar. 8, 1993, provides:

"This act shall take effect on the 30th day following enactment [Apr. 7, 1993], but amounts of contributions paid or made, or accepted, on or after January 1 of the year in which such enactment occurs and prior to that effective date by any person to whom the provisions of sections 18, 19, or 20 [§§ 19:44A-11.3, 19:44A-11.4 or 19:44A-11.5] apply shall

not be considered in determining the application of those sections on and after that effective date."

Title of Act:

An Act concerning campaign contributions and expenditures, revising and supplementing P.L.1973, c. 83 (C. 19:44A-1 et seq.) and amending P.L.1974, c. 26 and P.L.1989, c. 4. L.1993, c. 65.

American Law Reports

Power of corporation to make political contribution or expenditure under state law, 79 ALR3d 491.

State regulation of the giving or making of political contributions or ex-

pensitures by private individuals, 94 ALR3d 944.

Library References

Texts and Treatises

26 Am Jur 2d, Elect § 381.

19:44A-21. Concealment or misrepresentation of contributions or expenditures; reports; violations; penalties

a. Any person who purposely and with intent to conceal or misrepresent contributions given or received or expenditures made or incurred to aid or promote the nomination, election or defeat of any candidate for public office or party position, or to aid or promote the passage or defeat of a public question in any election, or to aid the dissemination of political information in connection with any election makes or accepts any contribution or makes or incurs any expenditure in violation of sections 7, 11 or 20 of this act ¹ is guilty of a crime of the fourth degree.

b. Any person who purposely files or prepares or assists in the preparation for filing or purposely acquiesces in the preparation or filing of any report required under this act which the person knows is false, inaccurate or incomplete in any material particular; or who purposely fails or refuses to file any such report when required to do so pursuant to the provisions of this act; or who purposely supplies any information which he knows to be false, inaccurate or incomplete to any person preparing or assisting in the preparation of any such report, with the knowledge that such information is intended for the purposes of such report, is guilty of a crime of the fourth degree.

c. The nomination for or election to any office of any candidate who is guilty of any violation within the description of subsection a. or b. of this section shall be void, and the office shall be filled as required by law in the case of a vacancy; provided, however, that nothing herein contained shall be construed in derogation of the constitutional authority of either House of the Legislature to be the judge of the election and qualification of its own members.

d. Any individual, partnership, membership organization or other association who or which, directly or through an agent, purposely makes a loan or advance of money or other thing of value in violation of section 11 or section 20 of P.L.1973, c. 83 (C. 19:44A-11, C. 19:44A-20) is guilty of a crime of the fourth degree.

e. Any individual, partnership, membership organization or other association who or which purposely makes a contribution as a result of having been induced to do so through the receipt, promise or offer of a loan or advance of money or other thing of value, the making of which loan or advance would constitute a violation of section 11 or

section 20 of P.L.1973, c. 83 (C. 19:44A-11, C. 19:44A-20), is guilty of a crime of the fourth degree.

L.1973, c. 83, § 21, eff. April 24, 1973. Amended by L.1993, c. 65, § 12.

¹ N.J.S.A. §§ 19:44A-7, 19:44A-11, or 19:44A-20.

Historical and Statutory Notes

L.1993, c. 65, § 27, approved Mar. 8, 1993, provided:

"This act shall take effect on the 30th day following enactment [Apr. 7, 1993], but amounts of contributions paid or made, or accepted, on or after January 1 of the year in which such enactment oc-

curs and prior to that effective date by any person to whom the provisions of sections 18, 19, or 20 [§§ 19:44A-11.3, 19:44A-11.4 or 19:44A-11.5] apply shall not be considered in determining the application of those sections on and after that effective date."

Library References

Elections \S 317.1, 317.4.

WESTLAW Topic No. 144.

C.J.S. Elections § 329.

Notes of Decisions

Default in making report 2 Penal effect 1

1. Penal effect

"Penal" effect of this act should not have been considered in determining whether to give only prospective effect to determination that group organized to secure signatures to force recall election of mayor was "political committee" within meaning of the act so as to subject group to reporting requirements of the act, where criminal penalties were not imposed and civil penalties assessed, of fines totalling \$600, were not so significant as to be penal in nature. New Jer-

sey Election Law Enforcement Com'n v. Citizens to Make Mayor-Council Government Work, 107 N.J. 380, 526 A.2d 1069 (1987).

2. Default in making report

Campaign Contributions and Expenditures Reporting Act, § 19:44A-1 et seq., contemplates remedy for default of statutory reporting by committee of receipts and expenditures initially through Election Law Enforcement Commission rather than courts. O'Neill v. Lerner, 154 N.J.Super. 317, 381 A.2d 383 (A.D.1977), certification denied 75 N.J. 610, 384 A.2d 840.

19:44A-22. Reports, records, notices, etc.; violations; additional penalty; hearing; determination; penalties for illegal contributions

a. (1) Except as provided in subsection e. or f., any person, including any candidate, treasurer, candidate committee or joint candidates committee, political committee, continuing political committee, political party committee or legislative leadership committee, charged with the responsibility under the terms of this act for the preparation, certification, filing or retention of any reports, records, notices or other documents, who fails, neglects or omits to prepare, certify, file or retain any such report, record, notice or document at

the time or during the time period, as the case may be, and in the manner prescribed by law, or who omits or incorrectly states or certifies any of the information required by law to be included in such report, record, notice or document, any person who proposes to undertake or undertakes a public solicitation, testimonial affair or other activity relating to contributions or expenditures in any way regulated by the provisions of this act who fails to comply with those regulatory provisions, and any other person who in any way violates any of the provisions of this act shall, in addition to any other penalty provided by law, be liable to a penalty of not more than \$3,000.00 for the first offense and not more than \$6,000.00 for the second and each subsequent offense.

(2) No person shall willfully and intentionally agree with another person to make a contribution to a candidate, candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, or legislative leadership committee with the intent, or upon the condition, understanding or belief, that the recipient candidate or committee shall make or have made a contribution to another such candidate or committee, but this paragraph shall not be construed to prohibit a county or municipal committee of a political party from making a contribution or contributions to any candidate, candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, or legislative leadership committee. A finding of a violation of this paragraph shall be made only upon clear and convincing evidence. A person who violates the provisions of this paragraph shall be liable to a penalty equal to three times the amount of the contribution which that person agreed to make to the recipient candidate or committee.

b. Upon receiving evidence of any violation of this section, the Election Law Enforcement Commission shall have power to hold, or to cause to be held under the provisions of subsection d. of this section, hearings upon such violation and, upon finding any person to have committed such a violation, to assess such penalty, within the limits prescribed in subsection a. of this section, as it deems proper under the circumstances, which penalty shall be paid forthwith into the State Treasury for the general purposes of the State.

c. In assessing any penalty under this section, the Election Law Enforcement Commission may provide for the remission of all or any part of such penalty conditioned upon the prompt correction of any failure, neglect, error or omission constituting the violation for which said penalty was assessed.

d. The commission may designate a hearing officer to hear complaints of violations of this act. Such hearing officer shall take

testimony, compile a record and make factual findings, and shall submit the same to the commission, which shall have power to assess penalties within the limits and under the conditions prescribed in subsections b. and c. of this section. The commission shall review the record and findings of the hearing officer, but it may also seek such additional testimony as it deems necessary. The commission's determination shall be by majority vote of the entire authorized membership thereof.

e. Any person who willfully and intentionally makes or accepts any contribution in violation of section 4 of P.L.1974, c. 26 (C. 19:44A-29) or sections 18, 19 or 20 of P.L.1993, c. 65 (C. 19:44A-11.3, 19:44A-11.4 or 19:44A-11.5), shall be liable to a penalty of:

(1) Not more than \$5,000.00 if the cumulative total amount of those contributions is less than or equal to \$5,000.00;

(2) Not more than \$75,000.00 if the cumulative total amount of those contributions was more than \$5,000.00 but less than \$75,000; and

(3) Not more than \$100,000.00 if the cumulative total amount of those contributions is equal to or more than \$75,000.00.

f. In addition to any penalty imposed pursuant to subsection e. of this section, a person holding any elective public office shall forfeit that public office if the Election Law Enforcement Commission determines that the cumulative total amount of the illegal contributions was more than \$50,000.00 and that the violation had a significant impact on the outcome of the election.

g. Any penalty prescribed in this section shall be enforced in a summary proceeding under "the penalty enforcement law" (N.J.S. 2A:58-1 et seq.).

L.1973, c. 83, § 22, eff. April 24, 1973. Amended by L.1983, c. 579, § 20, eff. Jan. 17, 1984; L.1993, c. 65, § 13.

Historical and Statutory Notes

L.1993, c. 65, § 27, approved Mar. 8, 1993, provided:

"This act shall take effect on the 30th day following enactment [Apr. 7, 1993], but amounts of contributions paid or made, or accepted, on or after January 1 of the year in which such enactment oc-

curs and prior to that effective date by any person to whom the provisions of sections 18, 19, or 20 [§§ 19:44A-11.3, 19:44A-11.4 or 19:44A-11.5] apply shall not be considered in determining the application of those sections on and after that effective date."

Administrative Code References

Contribution reports, see N.J.A.C. 19:25-10.1 et seq.

Preelection and post-election report, see N.J.A.C. 19:25-9.1 et seq.

Reporting requirements, see N.J.A.C. 19:25-4.1 et seq.

Library References

Elections § 317.4, 323.

WESTLAW Topic No. 144:

C.J.S. Elections §§ 329, 355.

Notes of Decisions

Continuing political committees 4
Default in filing report 3
Funneling contributions 5
Sufficiency of evidence 6
Treasurers 2
Validity 1

1. Validity

Penalty provision of Campaign Contributions and Expenditures Reporting Act [N.J.S.A. 19:44A-22] was not unconstitutional on ground that it failed to specify statute of limitations, as applied in proceeding arising from Election Law Enforcement Commission's complaint which was filed within five months of school board election out of which the complaint arose. *New Jersey Election Law Enforcement Com'n v. Brown*, 206 N.J.Super. 206, 502 A.2d 59 (A.D.1985).

2. Treasurers

Under § 19:44A-8 governing reports by political committees and information organizations, county committee of political party was required to file annual report and treasurer's obligation was to certify report's correctness; thus, treasurer of county committee, not being person charged with responsibility for filing report could not be penalized for late filing. *New Jersey Election Law Enforcement Commission v. Hunterdon County Democratic Committee*, 178 N.J.Super. 233, 428 A.2d 925 (A.D.1981), certification denied 87 N.J. 371, 434 A.2d 1058.

3. Default in filing report

Ruling that group organized to secure signatures to force recall election of mayor was "political committee" within meaning of this act so as to subject group to reporting requirements of the act should not have been restricted to prospective application, although decision was one of first impression, given that group could not reasonably have assumed it had no reporting obligation under comprehensive election financing law disclosure scheme and that group was in-

formed by Election Law Enforcement Commission prior to recall election that it was required to file pre and postelection reports, but failed to timely comply with its statutory obligations; thus, group could not avoid liability for civil penalties assessed by Commission for violation of statutory requirements. *New Jersey Election Law Enforcement Com'n v. Citizens to Make Mayor-Council Government Work*, 107 N.J. 380, 526 A.2d 1069 (1987).

A joint campaign committee was subject to a single fine for failure to file or timely file required reports, with each committee member jointly responsible for payment. *Election Law Enforcement Com'n v. Condo*, 93 N.J.A.R.2d (ELE) 1 (1993).

County committee of political party was fined the sum of \$100, under N.J.S.A. 19:44A-22, for filing annual report of contributions and expenditures with Election Law Enforcement Commission 14 days beyond statutory deadline set forth in N.J.S.A. 19:44A-8, where failure to timely file annual report was nonwilful in nature and was a "first time" violation. *N.J.Elec.Law Comm. v. Hunterdon Cty. Dem. Comm.*, 7 N.J.A.R. 251 (1980), reversed in part on other grounds, 178 N.J.Super. 233, 428 A.2d 925, certification denied 87 N.J. 371, 434 A.2d 1058.

State committee and committee treasurer were reprimanded and jointly fined \$500.00 for failure to file the annual financial report on time. *Elec. Law Enf. Comm'n. v. N.J. Democratic State Comm.*, 2 N.J.A.R. 108 (1980).

4. Continuing political committees

The Campaign Contribution and Expenditure Reporting Act does not bar a business or individual from making a contribution to a continuing political committee with the belief, expectation or understanding that the continuing political committee will make a contribution to a particular recipient; a contrary interpretation would seriously dampen and

impair First Amendment association and expression rights. *Markwardt v. New Beginnings*, 304 N.J.Super. 522, 701 A.2d 706 (A.D.1997).

5. Funneling contributions

The Campaign Contribution and Expenditure Reporting Act bars a business or individual from entering into an agreement that requires, as one of its essential terms, that the donor's contribution will be funneled by donee continuing political committee to a predetermined recipient. *Markwardt v. New Beginnings*, 304 N.J.Super. 522, 701 A.2d 706 (A.D.1997).

Agreement, in violation of the Campaign Contribution and Expenditure Reporting Act, that donor's contribution will be funneled by donee continuing political committee to a predetermined recipient may be proved by circumstantial evi-

dence alone, and evidence need not lead to a certainty, but violation must be shown by clear and convincing evidence. *Markwardt v. New Beginnings*, 304 N.J.Super. 522, 701 A.2d 706 (A.D.1997).

6. Sufficiency of evidence

There was sufficient evidence supporting finding that company and continuing political committees it created engaged in an unlawful conspiracy, in violation of the Campaign Contribution and Expenditure Reporting Act, in which company controlled the activities of the continuing political committees and directed the flow of their contributions, but did not support conclusion that company and committees violated Act by making contributions to campaign committee. *Markwardt v. New Beginnings*, 304 N.J.Super. 522, 701 A.2d 706 (A.D.1997).

19:44A-22.1. Summary action by candidate; injunctive relief; costs and attorney fees

If a political committee or continuing political committee, having been established or consisting of members or having received contributions in violation of this act, shall have made any contribution or expenditure in opposition to, or in furtherance of the defeat of, a candidate, that candidate may, in a summary action in the Superior Court, apply for an order directing that political committee or continuing political committee to show cause why the court should not grant such injunctive relief as the candidate may seek. The court shall decide the application within 48 hours of the filing thereof and, upon a proper demonstration of the candidate's entitlement thereto, shall grant appropriate injunctive relief against that political committee or continuing political committee.

In addition, the court may order that contributions previously received by the committee shall be deemed to be contributions to the candidate committee or joint candidates committee, as appropriate, of the candidate's opponent in the election for all purposes of section 18 of P.L.1993, c. 65 (C. 19:44A-11.3), and shall so advise the Election Law Enforcement Commission. The court may also order that, to the extent that the amounts of such contributions so attributed are, together with other amounts contributed by the same contributors directly to the candidate committee or joint candidates committee, in excess of the amounts of contributions which that candidate committee or joint candidates committee could legally have received directly from those contributors under that section 18, the candidate committee or joint candidates committee of the aggrieved candidate may receive contributions in excess of the amounts

of contributions which that candidate committee or joint candidates committee could legally receive under section 18 of that P.L.1993, c. 65 (C. 19:44A-11.3).

If the court determines that an application for injunctive relief under this section is frivolous, the court may award costs, including any attorney's fees, to the political committee or continuing committee against which such relief was sought.

L.1993, c. 65, § 24.

Historical and Statutory Notes

L.1993, c. 65, § 27, approved Mar. 8, 1993, provides:

"This act shall take effect on the 30th day following enactment [Apr. 7, 1993], but amounts of contributions paid or made, or accepted, on or after January 1 of the year in which such enactment oc-

curs and prior to that effective date by any person to whom the provisions of sections 18, 19, or 20 [§§ 19:44A-11.3, 19:44A-11.4 or 19:44A-11.5] apply shall not be considered in determining the application of those sections on and after that effective date."

Library References

Elections ⇨ 317.5.
WESTLAW Topic No. 144.
C.J.S. Elections §§ 329, 356.

Texts and Treatises

26 Am Jur 2d, Elect §§369, 381.

Notes of Decisions

In general 1
Exhaustion of administrative remedies 3
Injunction 5
Jurisdiction 2
Parties 4

1. In general

Under the Campaign Contribution and Expenditure Reporting Act, a candidate in a general election may institute a summary action in the Superior Court challenging the legality of campaign contributions received by an opponent in a primary election, at least where the challenged contributions have been transferred for use in the general election. *Markwardt v. New Beginnings*, 304 N.J.Super. 522, 701 A.2d 706 (A.D.1997).

2. Jurisdiction

Mootness of case concerning contribution limitations under the Campaign Con-

tribution and Expenditure Reporting Act was not a bar to Appellate Division's exercise of jurisdiction since questions presented were of sufficient importance as to require appellate review, and were capable of repetition yet likely to evade review. *Markwardt v. New Beginnings*, 304 N.J.Super. 522, 701 A.2d 706 (A.D. 1997).

Superior Court has subject matter jurisdiction pursuant to the Campaign Contribution and Expenditure Reporting Act to consider the complaint of a candidate in a general election challenging the legality of contributions received by an opponent in a primary election, at least where a portion of the contested contributions has been transferred for use against the candidate in the general election; Election Law Enforcement commission (ELEC) does not have exclusive jurisdiction, but Superior Court may decline to exercise jurisdiction. *Markwardt v. New Beginnings*, 304 N.J.Super. 522, 701 A.2d 706 (A.D.1997).

Superior Court, Law Division, lacked jurisdiction to consider summary action for injunctive relief under New Jersey Campaign Contributions and Expenditures Reporting Act after election had passed and rendered moot alleged threat of irreparable harm from any violations of Act, in light of other provisions of Act indicating legislative intent for Election Law Enforcement Commission (ELEC) to be initial forum for post-election resolution of any violations of Act. *Hammer v. N.J. Voice, Inc.*, 302 N.J.Super. 169, 694 A.2d 1080 (L.1996).

3. Exhaustion of administrative remedies

Requiring exhaustion of adequate administrative post-election remedies for alleged violations of New Jersey Campaign Contributions and Expenditures Reporting Act available from Election Law Enforcement Commission (ELEC), before allowing summary action for injunctive relief under New Jersey Campaign Contributions and Expenditures Reporting Act, would serve interests of justice by ensuring that claims would be heard, as preliminary matter, by body possessing expertise in area, by allowing creation of factual record necessary for meaningful appellate review, and by potentially obviating need for resort to courts. *Hammer v. N.J. Voice, Inc.*, 302 N.J.Super. 169, 694 A.2d 1080 (L.1996).

General ruled that available and appropriate administrative remedies should be fully explored before judicial action is sanctioned supported transfer of post-election claim of violations of New Jersey Campaign Contributions and Expenditures Reporting Act to Election Law Enforcement Commission (ELEC). *Hammer v. N.J. Voice, Inc.*, 302 N.J.Super. 169, 694 A.2d 1080 (L.1996).

4. Parties

Although, read literally, the Campaign Contribution and Expenditure Reporting

Act permits an aggrieved candidate to bring a summary action only against a "political committee" or "continuing political committee," where an individual or business is alleged to be a key member of a conspiracy to violate the Act's requirements, the court should order the plaintiff to join as a party defendant that person or entity. *Markwardt v. New Beginnings*, 304 N.J.Super. 522, 701 A.2d 706 (A.D.1997).

Candidates for public office had standing under the Campaign Contribution and Expenditure Reporting Act to challenge contributions made through continuing political committees prior to general election, though they were not candidates in the primary election, where the challenged contributions were made in an uncontested primary election, and were made in furtherance of the defeat of plaintiff candidates, who were candidates in the general election, and at least a portion of the monies were ultimately transferred for the use of opponents in the general election. *Markwardt v. New Beginnings*, 304 N.J.Super. 522, 701 A.2d 706 (A.D. 1997).

5. Injunction

Injunction will not be granted that directly affects the rights of persons who are not parties and who are not represented in the action. *Markwardt v. New Beginnings*, 304 N.J.Super. 522, 701 A.2d 706 (A.D.1997).

Although trial court improperly enjoined nonparty under the Campaign Contribution and Expenditure Reporting Act from making additional contributions, there was no prejudice to nonparty where continuing political committees which were named as parties served as nonparty's alter ego. *Markwardt v. New Beginnings*, 304 N.J.Super. 522, 701 A.2d 706 (A.D.1997).

19:44A-22.2. Legislative findings and declaration

The Legislature finds and declares that:

a. in *McIntyre v. Ohio*, 63 U.S.L.W. 4279 (U.S. April 19, 1995) (No. 93-986), the United States Supreme Court invalidated, on First Amendment grounds, an Ohio statute prohibiting the distribution of campaign materials which did not bear the issuer's name and address;

b. nevertheless, this decision recognized that there may be circumstances in which a state's enforcement interest justifies a more limited identification requirement;

c. the court noted that in the area of campaign finance, in particular, a more narrowly drawn statute may be permitted;

d. prior decisions of the United States Supreme Court have established that regulation of campaign finance may be justified by a state's interest in preventing actual or perceived corruption; and

e. because the *McIntyre* decision calls into question the validity of certain New Jersey statutes requiring disclosures on campaign advertising, there is a need to revise the law so that it is narrowly-tailored to help effectuate the State's compelling interest in preventing corruption in connection with the financing of campaigns for public office.

L.1995, c. 391, § 1, eff. Feb. 1, 1996.

Historical and Statutory Notes

Title of Act:

An Act concerning campaign advertisements, amending and supplementing P.L.

1973, c. 83, and repealing parts of the statutory law. L.1995, c. 391.

Library References

Elections ⇨ 317.2, 317.5.
WESTLAW Topic No. 144.
C.J.S. Elections §§ 329, 356.

19:44A-22.3. Campaign advertisements; identification of issuer; disclosure of campaign financing; violations; penalties

a. Whenever a candidate committee, joint candidates committee, political committee, continuing political committee, political party committee or legislative leadership committee, or any group other than such a committee, or any person makes, incurs or authorizes an expenditure for the purpose of financing a communication aiding or promoting the nomination, election or defeat of any candidate or providing political information on any candidate which is an expenditure that the committee, group or person is required to report to the Election Law Enforcement Commission pursuant to P.L.1973, c. 83 (C. 19:44A-1 et seq.), the communication shall clearly state the name and business or residence address of the committee, group or person, as that information appears on reports filed with the commission, and that the communication has been financed by that committee, group or person.

b. Whenever a candidate committee, joint candidates committee, political committee, continuing political committee, political party

committee or legislative leadership committee, or any group other than such a committee, or any person makes, incurs or authorizes an expenditure for the purpose of financing a communication aiding the passage or defeat of any public question or providing political information on any public question which is an expenditure that the committee, group or person is required to report to the Election Law Enforcement Commission pursuant to P.L.1973, c. 83 (C. 19:44A-1 et seq.), the communication shall clearly state the name and business or residence address of the committee, group or person, as that information appears on reports filed with the commission, and that the communication has been financed by that committee, group or person.

c. A communication that is financed by any person, not acting in concert with a candidate or any person or committee acting on behalf of a candidate, shall contain a clear and conspicuous statement that the expenditure was not made with the cooperation or prior consent of, or in consultation with or at the request or suggestion of, any such candidate, person or committee.

d. Any person who accepts compensation from a committee, group or individual described in subsection a. or b. of this section for the purpose of printing, broadcasting, or otherwise disseminating to the electorate a communication shall maintain a record of the transaction which shall include an exact copy of the communication and a statement of the number of copies made or the dates and times that the communication was broadcast, and the name and address of the committee, group or individual paying for the communication. The record shall be maintained on file at the principal office of the person accepting the communication for at least two years and shall be available for public inspection during normal business hours.

e. As used in this section, "communication" means a press release, pamphlet, flyer, form letter, sign, billboard or paid advertisement printed in any newspaper or other publication or broadcast on radio or television, or any other form of advertising directed to the electorate.

f. The provisions of this section shall not be construed to apply to any bona fide news item or editorial contained in any publication of bona fide general circulation.

g. (1) A person who violates a provision of this section shall be subject to the civil penalties provided in section 22 of P.L.1973, c. 83 (C. 19:44A-22).

(2) A person who, with intent to injure anyone or to conceal wrongdoing, purposely falsifies, conceals or misrepresents information required by this section to be disclosed or maintained on file is guilty of a crime of the fourth degree.

h. The Election Law Enforcement Commission shall promulgate rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c. 410 (C. 52:14B-1 et seq.) to effectuate the purpose of this section. The commission may, by regulation, exempt from the provisions of this section small, tangible items of de minimis value which are commonly used in campaigns to convey a political message, including, but not limited to, buttons, combs, and nail files. The commission may also, by regulation, exempt from the provisions of this section advertising space purchased by a candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, legislative leadership committee or other person, in a political program book distributed at a fund-raising event if the financial transaction is otherwise subject to disclosure. An exemption granted by the commission with respect to any item shall not relieve the committee, group or individual making an expenditure therefor from any applicable campaign finance reporting requirements.

In addition, the commission shall have the authority to provide, by regulation, that a communication need not include the address of the committee, group or person financing the communication in circumstances where the name of a committee, group or person would be sufficient to identify it from the commission's records.

L.1995, c. 391; § 2, eff. Feb. 1, 1996.

Library References

Elections \Leftrightarrow 317.4, 317.5.
 WESTLAW Topic No. 144.
 C.J.S. Elections §§ 329, 356.

Comments

Standing to enforce election laws, see 35
 New Jersey Practice, Pane, § 481.

Notes of Decisions

School matters 1
 Standing to challenge 2
 Technical violation 3

1. School matters

Mailing of anonymous postcard advancing candidacy of incumbent school board members and suggesting passage of budget violated statute requiring attribution of campaign materials used in connection with school board elections. Matter of Annual School Election held in

Toms River Regional School Dist., Ocean County, 92 N.J.A.R.2d (EDU) 446 (1992).

2. Standing to challenge

Registered voter had standing to challenge actions of taxpayer's committee in distributing leaflets and displaying signs and advertisements regarding ballot issue without placing name and address of member of taxpayers' committee on each leaflet, sign or advertisement. *Komuves v. Members of Taxpayers Against Change in Government Committee*, 261 N.J.Super. 373, 618 A.2d 935 (L.1992).

3. Technical violation

Unincorporated taxpayers' committee committed technical violation of election laws when it failed to place name and address of member of committee on each sign, leaflet or advertisement distributed by committee in support of its opposition

to ballot issue; violation was technical where individual members of committee had publicized their identity to press and did not seek anonymity. *Komuves v. Members of Taxpayers Against Change in Government Committee*, 261 N.J.Super. 373, 618 A.2d 935 (L.1992).

19:44A-23. Construction of act

This act shall be construed liberally to effectuate the legislative intent and as complete and independent authority for the performance of each and every act and thing herein authorized.

L.1973, c. 83, § 23, eff. April 24, 1973.

19:44A-24. Supersedure of inconsistent acts

All acts and parts of acts, rules and regulations issued thereunder inconsistent in whole or in part with the provisions of this act are to such extent superseded.

L.1973, c. 83, § 24, eff. April 24, 1973.

19:44A-25. Severability

If any section, subsection, paragraph, sentence or other part of this act is adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of this act, but shall be confined in its effect to the section, subsection, paragraph, sentence or other part of this act directly involved in the controversy in which said judgment shall have been rendered.

L.1973, c. 83, § 25, eff. April 24, 1973.

19:44A-26. Repeals

The following acts or parts of acts are repealed.

a. R.S. 19:3-8, 19:34-36 and 19:34-37.

b. Chapters 40, 41, 42, 43 and 44 of Title 19 of the Revised Statutes.

c. P.L.1946, c. 152 (C. 19:41-4.1 and 19:41-4.2).

L.1973, c. 83, § 26, eff. April 24, 1973.

II. GUBERNATORIAL ELECTIONS**Library References**

Elections Ⓒ317.1 et seq.

WESTLAW Topic No. 144.

C.J.S. Elections § 329.

19:44A-27. Public policy

It is hereby declared to be a compelling public interest and to be the policy of this State that primary and general election campaigns for the office of Governor shall be financed with public support pursuant to the provisions of this act. It is the intention of this act that such financing be adequate in amount so that candidates for election to the office of Governor may conduct their campaigns free from improper influence and so that persons of limited financial means may seek election to the State's highest office.

L.1974, c. 26, § 2, eff. May 6, 1974. Amended by L.1980, c. 74, § 3, eff. July 23, 1980.

Historical and Statutory Notes

Statement: Committee statement to Senate, No. 1176—L.1980, c. 74, see § 19:44A-3.

Expenditures Reporting Act," approved April 24, 1973 (P.L.1973, c. 83). L.1974, c. 26.

Title of Act:

An Act to amend and supplement "The New Jersey Campaign Contributions and

Administrative Code References

Public financing, elections for governor, see N.J.A.C. 19:25-15.1 et seq.

Notes of Decisions**Rules and regulations 2****Validity 1****1. Validity**

Fact that Campaign Contributions and Expenditures Reporting Act limits the dollar amount of individual contributions to winners of the gubernatorial primary but imposes no such limit on the amount of contribution to the losers does not involve a distinction that is irrational or invidiously discriminatory. *Common Cause v. New Jersey Election Law Enforcement Commission*, 151 N.J.Super. 265, 376 A.2d 1237 (A.D.1977), certification granted 75 N.J. 22, 379 A.2d 253, affirmed 74 N.J. 231, 377 A.2d 643.

2. Rules and regulations

Regulation which was adopted by election law commission pursuant to its powers under Campaign Contributions and Expenditures Reporting Act and which provided that subject to act's expenditure limitations providing that amounts spent in aid of candidate shall not exceed 50¢ for each voter who voted in last preced-

ing general election in presidential year in district in which public office is sought, nothing contained in act prohibits an expenditure in any amount by candidate from his own funds was not invalid by reason of provision of act limiting individual contributions to gubernatorial candidate to \$600; limitation on contributions to gubernatorial candidate does not extend to expenditures. *Common Cause of New Jersey v. New Jersey Election Law Enforcement Commission*, 155 N.J.Super. 241, 382 A.2d 681 (A.D.1978).

Provisions of election law enforcement commission rule which permits contributions up to amount of \$600 to be made to winner of a gubernatorial primary election for purpose of paying off primary election expenses contravened the policy and express provisions of Campaign Contributions and Expenditures Reporting Act and are consequently illegal and void. *Common Cause v. New Jersey Election Law Enforcement Commission*, 151 N.J.Super. 265, 376 A.2d 1237 (A.D. 1977), certification granted 75 N.J. 22, 379 A.2d 253, affirmed 74 N.J. 231, 377 A.2d 643.

19:44A-28. Application of act

The provisions of this act shall apply to the general election campaign for the office of Governor to be held in November, 1977 and to all subsequent primary and general election campaigns for election to the office of Governor, except that the provisions of this act shall not apply to any primary or general election campaign for the office of Governor for which the Legislature fails to make an appropriation.

L.1974, c. 26, § 3, eff. May 6, 1974. Amended by L.1980, c. 74, § 4, eff. July 23, 1980.

Historical and Statutory Notes

Statement: Committee statement to Senate, No. 1176—L.1980, c. 74, see § 19:44A-3.

19:44A-29. Contributions; limit of \$1,500; political committees; limitations; report; contributions of own funds

a. Except in the case of a candidate, as provided in subsection g. of this section, no person, candidate committee or joint candidates committee, political committee, continuing political committee or legislative leadership committee, otherwise eligible to make contributions, shall make any contribution or contributions to a candidate, his campaign treasurer or deputy campaign treasurer, candidate committee, a political party committee, or to any other person or committee, in aid of the candidacy of or in behalf of a candidate for nomination for election or for election to the office of Governor in any primary or general election in the aggregate in excess of \$1,500.00, or in the case of a joint candidates committee when that is the only committee established by the candidates, in excess of \$1,500.00 per candidate in the joint candidates committee, or in the case of a candidate committee and a joint candidates committee when both are established by a candidate, \$1,500.00 from that candidate. No candidate for nomination for election or for election to the office of Governor in any primary or general election and no campaign treasurer deputy campaign or treasurer of such candidate shall knowingly accept from any person, candidate, candidate committee, joint candidates committee, political committee, continuing political committee or legislative leadership committee any contribution or contributions in aid of the candidacy of or in behalf of such candidate in the aggregate in excess of \$1,500.00, or in the case of a joint candidates committee when that is the only committee established by the candidates, in excess of \$1,500.00 per candidate in the joint candidates committee, or in the case of a candidate committee and a joint candidates committee when both are established by a

candidate, \$1,500.00 from that candidate, in any primary or general election. No provision of this act shall be construed to prohibit a contribution or contributions in the aggregate in aid of the candidacy of or in behalf of any candidate for nomination for election to the office of Governor in a primary election not in excess of \$1,500.00, or in the case of a contribution or contributions by a joint candidates committee when that is the only committee established by the candidates, in excess of \$1,500.00 per candidate in the joint candidates committee, or in the case of a candidate committee and a joint candidates committee when both are established by a candidate, \$1,500.00 from that candidate, and another contribution or contributions in the aggregate in the aid of the candidacy of or in behalf of any candidate for election to the office of Governor in a general election not in excess of \$1,500.00, or in the case of a contribution or contributions by a joint candidates committee when that is the only committee established by the candidates, in excess of \$1,500.00 per candidate in the joint candidates committee, or in the case of a candidate committee and a joint candidates committee when both are established by a candidate, \$1,500.00 from that candidate. For the purpose of determining the amount of a contribution to be attributed as given by each candidate in a joint candidates committee, the amount of the contribution by such a committee shall be divided equally among all the candidates in the committee.

b. (Deleted by amendment. P.L.1980, c. 74.)

c. The spouse of any contributor may make a contribution or contributions in the aggregate in aid of the candidacy of or in behalf of a candidate for nomination for election or for election to the office of Governor of up to \$1,500.00.

d. No State committee of any political party shall knowingly accept from any person, candidate committee, joint candidates committee, political committee, continuing political committee or legislative leadership committee, any contribution or contributions in the aggregate in aid of the candidacy of or in behalf of a candidate for election to the office of Governor in a general election in excess of \$1,500.00, or in the case of a contribution or contributions by a joint candidates committee when that is the only committee established by the candidates, in excess of \$1,500.00 per candidate in the joint candidates committee, or in the case of a candidate committee and a joint candidates committee when both are established by a candidate, \$1,500.00 from that candidate. A State committee may allocate a contribution of up to \$1,500.00, and up to \$1,500.00 of a contribution in excess of \$1,500.00 in aid of the candidacy of or in behalf of such candidate, except that in the case of a contribution from a joint candidates committee when that is the only committee established by

the candidates, the amounts which may be so allocated shall be \$1,500.00 per candidate in the joint candidates committee, and in the case of a candidate committee and a joint candidates committee when both are established by a candidate, the amount which may be so allocated shall be \$1,500.00 from that candidate. For the purpose of determining the amount of a contribution to be attributed as given by each candidate in a joint candidates committee, the amount of the contribution by such a committee shall be divided equally among all the candidates in the committee. A State committee shall create an account in a National or State bank in behalf of any candidate the committee intends to or does assist for election to the office of Governor in a general election, shall deposit in such account and report to the Election Law Enforcement Commission the name of the contributor of all moneys accepted or allocated in aid of the candidacy of or in behalf of such candidate, and may make a contribution or contributions from such account in any amount in aid of the candidacy of or in behalf of such candidate. No State committee may make any contribution or contributions in aid of the candidacy of or in behalf of such candidate of moneys not deposited in a bank account pursuant to this subsection, and no State committee may make a contribution or contributions in aid of the candidacy of or in behalf of such candidate of moneys or other thing of value pledged or received in a calendar year in which no gubernatorial election was held.

e. The county committee of a political party in a county and the municipal committees of that political party in the same county may make an expenditure or expenditures in the aggregate of \$10,000.00 in aid of the candidacy of or in behalf of any candidate for election to the office of Governor in a general election. No county committee or municipal committee may transfer or contribute any funds to any such candidate or to such candidate's campaign treasurer or deputy campaign treasurer, or to any political committee supporting such candidate. A candidate or his campaign treasurer or deputy campaign treasurer shall determine the exact amount that individual county committees or municipal committees may contribute in aid of the candidacy of or in behalf of such candidate, and shall file a report of such determination with the Election Law Enforcement Commission no later than the seventh day prior to the general election being funded.

f. Communications on any subject by a corporation to its stockholders and their families, or by a labor organization to its members and their families, and nonpartisan registration and get-out-the-vote campaigns by a corporation aimed at its stockholders and their families, or by a labor organization aimed at its members and their families, shall not be construed to be in aid of the candidacy of or in

behalf of a candidate for election to the office of Governor in any primary or general election.

g. No candidate receiving public funds may make expenditures from his own funds, including any contributions from his own funds, in aid of his candidacy for nomination or election to the office of Governor in excess of \$25,000.00 for the primary election and \$25,000.00 for the general election.

As used in this subsection "own funds" means funds to which the candidate is legally and beneficially entitled, but shall not include funds as to which he is a trustee, or funds given or otherwise transferred to the candidate by any person other than the spouse of the candidate for use in aid of his candidacy.

L.1974, c. 26, § 4, eff. May 6, 1974. Amended by L.1980, c. 74, § 5, eff. July 23, 1980; L.1989, c. 4, § 5; L.1993, c. 65, § 14.

Historical and Statutory Notes

L.1993, c. 65, § 27, approved Mar. 8, 1993, provided:

"This act shall take effect on the 30th day following enactment [Apr. 7, 1993], but amounts of contributions paid or made, or accepted, on or after January 1 of the year in which such enactment occurs and prior to that effective date by any person to whom the provisions of sections 18, 19, or 20 [§§ 19:44A-11.3,

19:44A-11.4 or 19:44A-11.5] apply shall not be considered in determining the application of those sections on and after that effective date."

Retroactivity and severability of L.1989, c. 4, see Historical Note under § 19:44A-3.

Statement: Committee statement to Senate, No. 1176—L.1980, c. 74, see § 19:44A-3.

Administrative Code References

Contributions eligible for match, see N.J.A.C. 19:25-15.14 et seq.

Library References

Elections ⇨ 317.1, 317.4.

WESTLAW Topic No. 144.

C.J.S. Elections § 329.

Notes of Decisions

Corporate communication 5
Expenditures 2
Limitations on contributions 4
Rules and regulations 3
Validity 1

1. Validity

Although unsuccessful candidates in primary campaigns were not bound by the \$600 campaign contribution limitation imposed by the Campaign Contributions and Expenditures Reporting Act

equal protection guarantees were not thereby violated, since the concerns underlying the statute were sufficient to justify the legislature's disparate treatment of winners and losers in primary elections. *Common Cause v. New Jersey Election Law Enforcement Com'n*, 74 N.J. 231, 377 A.2d 643 (1977).

Fact that Campaign Contributions and Expenditures Reporting Act limits the dollar amount of individual contributions to winners of the gubernatorial primary but imposes no such limit on the amount

of contribution to the losers does not involve a distinction that is irrational or invidiously discriminatory. *Common Cause v. New Jersey Election Law Enforcement Commission*, 151 N.J.Super. 265, 376 A.2d 1237 (A.D.1977), certification granted 75 N.J. 22, 379 A.2d 253, affirmed 74 N.J. 231, 377 A.2d 643.

2. Expenditures

Regulation which was adopted by election law commission pursuant to its powers under Campaign Contributions and Expenditures Reporting Act and which provided that subject to act's expenditure limitations providing that amounts spent in aid of candidate shall not exceed 50¢ for each voter who voted in last preceding general election in presidential year in district in which public office is sought, nothing contained in act prohibits an expenditure in any amount by candidate from his own funds was not invalid by reason of provision of act limiting individual contributions to gubernatorial candidate to \$600; limitation on contributions to gubernatorial candidate does not extend to expenditures. *Common Cause of New Jersey v. New Jersey Election Law Enforcement Commission*, 155 N.J.Super. 241, 382 A.2d 681 (A.D.1978).

3. Rules and regulations

Regulation of Election Law Enforcement Commission, which charged gubernatorial candidate with nongubernatorial candidate's expenditures whenever nongubernatorial candidate's advertisement included support of gubernatorial candidate, exceeded Commission's authority; Commission could not charge gubernatorial candidate with another candidate's truly independent expenditures. *Friends of Governor Tom Kean v. New Jersey Election Law Enforcement Com'n*, 114 N.J. 33, 552 A.2d 612 (1985).

Regulation adopted by the New Jersey election law enforcement commission pursuant to the authority vested in it under the Campaign Contributions and Expenditures Reporting Act, which regulation pertains to the payment of primary expenses after the date of the primary, impermissibly exceeds the scope of authority vested in the election commission. *Common Cause v. New Jersey Election Law Enforcement Com'n*, 74 N.J. 231, 377 A.2d 643 (1977).

Provisions of election law enforcement commission rule which permits contributions up to amount of \$600 to be made to winner of a gubernatorial primary election for purpose of paying off primary election expenses contravened the policy and express provisions of Campaign Contributions and Expenditures Reporting Act and are consequently illegal and void. *Common Cause v. New Jersey Election Law Enforcement Commission*, 151 N.J.Super. 265, 376 A.2d 1237 (A.D. 1977), certification granted 75 N.J. 22, 379 A.2d 253, affirmed 74 N.J. 231, 377 A.2d 643.

Under regulation of election law enforcement commission which permits contributions up to amount of \$600 to be made to winner of a gubernatorial primary election for purpose of paying off primary election expenses, proviso which purports to exempt candidates who have elected not to receive public funding is not required as a matter of equal protection or as a matter of statutory interpretation. *Common Cause v. New Jersey Election Law Enforcement Commission*, 151 N.J.Super. 265, 376 A.2d 1237 (A.D. 1977), certification granted 75 N.J. 22, 379 A.2d 253, affirmed 74 N.J. 231, 377 A.2d 643.

4. Limitations on contributions

Under provision of this section of the Campaign Contributions and Expenditures Reporting Act prohibiting payments "in behalf of the winner of a primary election for the office of Governor in the aggregate in excess of \$600.00 for any purpose after the date of such primary election," all campaign contributions in excess of \$600 to any candidate in the gubernatorial general election are prohibited, regardless of whether the contribution is intended to be used to pay primary debts. *Common Cause v. New Jersey Election Law Enforcement Com'n*, 74 N.J. 231, 377 A.2d 643 (1977).

5. Corporate communication

Although letter sent by Commissioner of Insurance to policyholders indicating the then current status of rehabilitation plan for bankrupt insurance company and governor's position on pending insurance-related legislation was a political communication, it was exempt pursuant to N.J.A.C. 19:25-11.10(c) which exempts the reporting of a communication in writing that is made to a constituent as a

Note 5

direct response to a prior communication or that is circulated for the purpose of communicating governmental events requiring constituents to take action before

the date of the election. *People for Whitman Committee v. Florio '93, Inc.*, 93 N.J.A.R.2d (ELE) 7 (1993).

19:44A-30. Appropriations for fund for election campaign expenses

The Legislature shall appropriate to the New Jersey Election Law Enforcement Commission out of the Gubernatorial Elections Fund established pursuant to N.J.S. 54A:9-25.1 and available for appropriation from the fund, and, if necessary, out of the General Treasury of the State such sums as are necessary to carry out the purposes of this act, which sums shall constitute a fund for campaign expenses for the primary election and the general election to the office of Governor, in such amounts or proportions as the Legislature shall direct the appropriation to be distributed between each of the two elections, to be regulated and distributed by the commission pursuant to this act. Upon notice by the commission, the Legislature shall appropriate to the commission out of the General Treasury such additional sums as may be required to carry out the purposes of this act if the sums first appropriated become inadequate.

L.1974, c. 26, § 5, eff. May 6, 1974. Amended by L.1980, c. 74, § 6, eff. July 23, 1980.

Historical and Statutory Notes

Statement: Committee statement to Senate, No. 1176—L.1980, c. 74, see § 19:44A-3.

19:44A-31. Repealed by L.1980, c. 74, § 20, eff. July 23, 1980

Historical and Statutory Notes

The repealed section, added by L.1974, c. 26, § 6, prohibited use of funds from contributions for general election if received prior to primary election and not deposited to account for general election.

See, now, § 19:44A-32.

Statement: Committee statement to Senate, No. 1176—L.1980, c. 74, see § 19:44A-3.

19:44A-32. Primary and general election bank accounts of candidates; deposits; expenditures; nonliability of banks

a. Each candidate in the primary election to the office of Governor, shall, with the approval of the Election Law Enforcement Commission, create a bank account in a National or State bank. The candidate, his campaign treasurer or deputy campaign treasurer shall deposit promptly into the account all moneys received pursuant

to section 4 of P.L.1974, c. 26 (C. 19:44A-29) and sections 11 and 12 of P.L.1973, c. 83 (C. 19:44A-11 and 19:44A-12).

b. Each candidate in the general election to the office of Governor shall, with the approval of the Election Law Enforcement Commission, create an account in a National or State bank. The candidate, his campaign treasurer or deputy campaign treasurer shall deposit promptly into the account all moneys received for the purpose of the election, provided that the moneys are received pursuant to section 4 of P.L.1974, c. 26 (C. 19:44A-29) and sections 11 and 12 of P.L.1973, c. 83 (C. 19:44A-11 and 19:44A-12).

c. Immediately after deposit in the bank account the candidate or his campaign treasurer or deputy campaign treasurer may transfer or expend the moneys, except that no moneys deposited in a candidate's bank account for the primary election may be expended for any candidate's general election expenses, and except that no moneys deposited in a candidate's bank account for the general election may be transferred or expended until the day following the primary election or may be expended for primary election expenses.

d. No State or National bank which acts as a depository for election funds as provided in this act shall be held accountable for the proper application of funds withdrawn, transferred or expended from such accounts by the person or persons in whose name or names the accounts are opened or maintained, nor shall the State or National bank be under any duty to determine whether the funds deposited in the account are withdrawn, transferred or expended for the purposes and at the time or times prescribed by law, or are received from sources and in amounts prescribed or limited by law. L.1974, c. 26, § 7, eff. May 6, 1974. Amended by L.1980, c. 74, § 7, eff. July 23, 1980.

Historical and Statutory Notes

- **Statement:** Committee statement to Senate, No. 1176—L.1980, c. 74, see § 19:44A-3.

Administrative Code References

Qualified candidate defined, see N.J.A.C. 19:25-15.3.

Library References

Elections ⇄ 317.1.

WESTLAW Topic No. 144.

C.J.S. Elections § 329.

19:44A-33. Payment from fund for primary or general election campaign expenses; amounts

a. The campaign treasurer or deputy campaign treasurer of any qualified candidate for nomination for election to the office of Governor in a primary election upon application to the commission shall promptly receive in behalf of the qualified candidate from the fund for election campaign expenses, but not prior to January 1 of the year of the election, moneys in an amount equal to twice the amount of no more than \$1,500.00 of each contribution deposited in the qualified candidate's primary election bank account described in section 7 of P.L.1974, c. 26 (C.19:44A-32), except that no payment shall be made from the fund to any candidate for the first \$50,000.00 deposited in the qualified candidate's bank account. The maximum amount which any qualified candidate for nomination for election to the office of Governor in a primary election may receive from the fund for election campaign expenses shall not exceed \$1,350,000. Applications for payments and payments under this subsection following the date on which a candidate is determined to be a qualified candidate shall be made only on the basis of no less than \$12,500.00 of such contributions.

b. The campaign treasurer or deputy campaign treasurer of any qualified candidate for election to the office of Governor in a general election upon application to the commission shall promptly receive in behalf of such qualified candidate from the fund for election campaign expenses, but not prior to the primary election, moneys in an amount equal to twice the amount of no more than \$1,500.00 of each contribution deposited in such qualified candidate's bank account described in section 7 of P.L.1974, c. 26 (C.19:44A-32), except that no payment shall be made from the fund to any candidate for the first \$50,000.00 deposited in such qualified candidate's bank account.

The maximum amount which any qualified candidate for election to the office of Governor in a general election may receive from the fund for election campaign expenses shall not exceed \$3,300,000. Applications for payments and payments under this subsection following the date on which a candidate is determined to be a qualified candidate shall be made only on the basis of no less than \$12,500.00 of such contributions.

L.1974, c. 26, § 8, eff. May 6, 1974. Amended by L.1980, c. 74, § 8, eff. July 23, 1980; L.1989, c. 4, § 6.

Historical and Statutory Notes

Provisions of L.1989, c. 4, relating to administrative rules and actions to effectuate the purposes of the act, and moneys

from the fund for election campaign expenses, see Historical Note under § 19:44A-3.

Retroactivity and severability of
L.1989, c. 4, see Historical Note under
§ 19:44A-3.

Statement: Committee statement to
Senate, No. 1176—L.1980, c. 74, see
§ 19:44A-3.

Library References

Elections ⇨317.1.

WESTLAW Topic No. 144.

C.J.S. Elections § 329.

19:44A-34. Separate bank accounts for other funds; disposition of contributions of political committees

a. No contribution which must be or is intended by the contributor or the recipient to be refunded or repaid at any time, no loan obtained pursuant to section 19 of P.L.1974, c. 26 (C. 19:44A-44), no amount of the candidate's own funds in the aggregate in excess of \$800.00, and no other moneys received by the candidate, his campaign treasurer or deputy campaign treasurer, except those contributions described in subsections a. and b. of section 4 of P.L.1974, c. 26 (C. 19:44A-29), shall be deposited into any candidate's primary election and general election bank accounts described in section 7 of P.L.1974, c. 26 (C. 19:44A-32), but shall be deposited in separate bank accounts from which expenditures for the respective campaigns may be made.

b. No contribution by any county committee or municipal committee of any political party shall be deposited into any candidate's bank accounts. A State committee may forward to a candidate and have deposited into the candidate's general election bank account described in section 7 of P.L.1974, c. 26 (C. 19:44A-32) money in aid of the candidacy of or in behalf of such candidate received pursuant to section 4 of P.L.1974, c. 26 (C. 19:44A-29) and sections 11 and 12 of P.L.1973, c. 83 (C. 19:44A-11 and 19:44A-12).

L.1974, c. 26, § 9, eff. May 6, 1974. Amended by L.1980, c. 74, § 9, eff. July 23, 1980.

Historical and Statutory Notes

Statement: Committee statement to
Senate, No. 1176—L.1980, c. 74, see
§ 19:44A-3.

Library References

Elections ⇨317.1.

WESTLAW Topic No. 144.

C.J.S. Elections § 329.

19:44A-35. Expenditures from fund for election campaign expenses; rules and regulations; purposes; return of unexpended funds

a. All expenditures from the fund for election campaign expenses shall be made pursuant to rules and regulations of the Election Law Enforcement Commission and shall be strictly limited to the following purposes:

- (1) Purchase of time on radio and television stations;
- (2) Purchase of rental space on outdoor signs or billboards;
- (3) Purchase of advertising space in newspapers and regularly published magazines and periodicals;
- (4) Payment of the cost of producing the material aired or displayed on radio, television, outdoor signs or billboards, and in newspapers, regularly published magazines and periodicals;
- (5) Payment of the cost of printing and mailing campaign literature and brochures distributed under the name of any qualified candidate;
- (6) Payment of the cost of legal and accounting expenses incurred in complying with the public financing regulations of the Election Law Enforcement Commission and with the public financing provisions of P.L.1974, c. 26 (C. 19:44A-27 et seq.);
- (7) Payment of the cost of telephone deposits, and installation charges and monthly billings in excess of deposits. Within 6 months after the primary and general elections, respectively, a candidate shall return to the fund the amount of any public funds used to pay such telephone deposits which are later returned.

b. The limitations in subsection a. of this section upon expenditures from the fund for election campaign expenses shall not apply to expenditures of private contributions, whether or not such private contributions were deposited in a candidate's bank accounts pursuant to section 7 of P.L.1974, c. 26 (C. 19:44A-32).

c. Moneys received by a qualified candidate from the fund for election campaign expenses may be retained for a period not exceeding 6 months after the election for which such moneys were received in order to liquidate all obligations to pay expenses for the purposes permitted by this section which were incurred during the election campaign. All obligations having been liquidated, all moneys remaining available to any qualified candidate, shall be paid into the fund, except that no candidate shall pay into the fund moneys in excess of moneys received from the fund.

L.1974, c. 26, § 10, eff. May 6, 1974. Amended by L.1980, c. 74, § 10, eff. July 23, 1980.

Historical and Statutory Notes

Statement: Committee statement to Senate, No. 1176—L.1980, c. 74, see § 19:44A-3.

Library References

Elections § 317.1.
WESTLAW Topic No. 144.
C.J.S. Elections § 329.

United States Supreme Court

Elections, distribution of anonymous campaign literature, see *McIntyre v. Ohio Elections Com'n*, 1995, 115 S.Ct. 1511, 514 U.S. 334, 131 L.Ed.2d 426, on remand 72 Ohio St.3d 1544, 650 N.E.2d 903.

19:44A-36. Moneys from fund as "spent in aid of the candidacy of any candidate"; limitations on withdrawal from fund

Moneys received by any qualified candidate from the fund for election campaign expenses are to be considered "spent in aid of the candidacy of any candidate" for election to the office of Governor for the purpose of section 7 of P.L.1973, c. 83 (C. 19:44A-7). The Election Law Enforcement Commission shall not withdraw from the fund for election campaign expenses any sum, which results in a candidate's exceeding the limitations of that section.

L.1974, c. 26, § 11, eff. May 6, 1974. Amended by L.1980, c. 74, § 11, eff. July 23, 1980.

Historical and Statutory Notes

Statement: Committee statement to Senate, No. 1176—L.1980, c. 74, see § 19:44A-3.

Notes of Decisions

Validity 1

1. Validity

Expenditure limitations on gubernatorial candidates who voluntarily accept

public financing for general election campaign expenses under this section is constitutionally valid. Atty.Gen.F.O.1976, No. 10.

19:44A-37. Statements from gubernatorial candidates; printing and mailing with sample ballot

The Election Law Enforcement Commission shall, on or before the forty-fifth day prior to the date on which the general election is to be held, supply each county clerk with the text of statements from each

candidate for election to the office of Governor. Each candidate for the office of Governor who wishes a statement mailed on his behalf shall submit to the commission, on forms provided by it, his proposed statement which shall not exceed 500 words in length. Each county clerk shall cause the statements submitted by all such candidates to be printed and mailed with the sample ballot for the general election to each registered voter in the county with a short explanation prepared by the commission that such statements are provided pursuant to this law to assist the voters of this State in making their determination among the candidates for the office of Governor. The cost of printing and mailing such statements shall be paid for by the counties; except that any cost to the counties resulting from the printing and mailing of such statements shall be reimbursed from State funds appropriated to the commission for that purpose on claim therefor made by the county clerk to the commission.

L.1974, c. 26, § 12, eff. May 6, 1974. Amended by L.1980, c. 74, § 12, eff. July 23, 1980.

Historical and Statutory Notes

Statement: Committee statement to Senate, No. 1176—L.1980, c. 74, see § 19:44A-3.

19:44A-38. Rules and regulations

The Election Law Enforcement Commission may adopt such rules and regulations as may be required to implement the provisions of this act and to carry out its purpose.

L.1974, c. 26, § 13, eff. May 6, 1974.

Administrative Code References

Public financing, election for governor, see N.J.A.C. 19:25-15.1 et seq., 19:25-16.1 et seq.

Notes of Decisions

Actions 3

Authority of commission 1

Validity of rules and regulations 2

1. Authority of commission

Advisory opinions of Election Law Enforcement Commission requiring allocation of portion of certain campaign expenses for combined advertising by Assembly candidates or county and other local office candidates which include reference to gubernatorial candidate to statutory [N.J.S.A. 19:44A-7] gubernato-

rial campaign expenditure limits exceeded scope of authority of Commission and thus, were invalid. *Friends of Governor Tom Kean v. New Jersey Election Law Enforcement Com'n*, 203 N.J. Super. 523, 497 A.2d 555 (A.D.1985), certification granted 102 N.J. 319, 508 A.2d 200, affirmed 102 N.J. 325, 508 A.2d 204, opinion issued 114 N.J. 33, 552 A.2d 612.

The grant of authority to election law enforcement commission to adopt such rules and regulations as may be required to implement provisions of Campaign

Contributions and Expenditures Reporting Act and to carry out its purpose does not empower commission to subvert or enlarge upon the statutory policy. *Common Cause v. New Jersey Election Law Enforcement Commission*, 151 N.J.Super. 265, 376 A.2d 1237 (A.D.1977), certification granted 75 N.J. 22, 379 A.2d 253, affirmed 74 N.J. 231, 377 A.2d 643.

2. Validity of rules and regulations

Regulation which was adopted by election law commission pursuant to its powers under Campaign Contributions and Expenditures Reporting Act and which provided that subject to act's expenditure limitations providing that amounts spent in aid of candidate shall not exceed 50¢ for each voter who voted in last preceding general election in presidential year in district in which public office is sought, nothing contained in act prohibits an expenditure in any amount by candidate from his own funds was not invalid by reason of provision of act limiting individual contributions to gubernatorial candidate to \$600; limitation on contributions to gubernatorial candidate does not extend to expenditures. *Common Cause of New Jersey v. New Jersey Election Law Enforcement Commission*, 155 N.J.Super. 241, 382 A.2d 681 (A.D.1978).

Regulation adopted by the New Jersey election law enforcement commission pursuant to the authority vested in it under the Campaign Contributions and Expenditures Reporting Act, which regulation pertains to the payment of primary expenses after the date of the primary, impermissibly exceeds the scope of authority vested in the election commission. *Common Cause v. New Jersey Election Law Enforcement Com'n*, 74 N.J. 231, 377 A.2d 643 (1977).

Provisions of election law enforcement commission rule which permits contributions up to amount of \$600 to be made to winner of a gubernatorial primary election for purpose of paying off primary election expenses contravened the policy and express provisions of Campaign Contributions and Expenditures Reporting Act and are consequently illegal and void. *Common Cause v. New Jersey Election Law Enforcement Commission*, 151 N.J.Super. 265, 376 A.2d 1237 (A.D. 1977), certification granted 75 N.J. 22, 379 A.2d 253, affirmed 74 N.J. 231, 377 A.2d 643.

3. Actions

Common cause, a nonprofit corporation having over 12,000 dues-paying members in New Jersey and having a major purpose of making government more responsive by reforming the political process, had standing to contest the validity of election commission regulation pertaining to the payment of primary expenses after the date of the primary. *Common Cause v. New Jersey Election Law Enforcement Com'n*, 74 N.J. 231, 377 A.2d 643 (1977).

A nonprofit District of Columbia corporation with over 12,000 dues-paying members in New Jersey with a major purpose to make government more responsive to reform of the political process had sufficient standing to bring appeal to review validity of rule of Election Law Enforcement Commission. *Common Cause v. New Jersey Election Law Enforcement Commission*, 151 N.J.Super. 265, 376 A.2d 1237 (A.D.1977), certification granted 75 N.J. 22, 379 A.2d 253, affirmed 74 N.J. 231, 377 A.2d 643.

19:44A-39. Public broadcasting authority; appearances of candidates

The New Jersey Public Broadcasting Authority established under P.L.1968, c. 405 (C. 48:23-1 et seq.) shall promote full discussions of public issues by the candidates for nomination for election or election to the office of Governor on the ballot in any primary or general election, in accordance with Federal law and free of charge to the candidate. The authority may promulgate such rules and regulations as may be necessary to effectuate the purpose of this section.

L.1974, c. 26, § 14, eff. May 6, 1974. Amended by L.1980, c. 74, § 13, eff. July 23, 1980; L.1981, c. 107, § 1, eff. April 2, 1981.

Historical and Statutory Notes

Statement: Committee statement to Senate, No. 1176—L.1980, c. 74, see § 19:44A-3.

American Law Reports

Liability of radio or television company for failure to afford equal time to political candidates, 31 ALR3d 1448.

Political candidate's right to equal broadcast time under 47 USCA sec. 315, 35 ALR Fed 856.

Library References

Telecommunications ¶472.
WESTLAW Topic No. 372.

C.J.S. Telegraphs, Telephones, Radio, and Television § 252.

Notes of Decisions

Balance, fairness and equity 3
Preemption 2
Related laws 1

1. Related laws

Section 48:23-7 requiring public broadcasting authority to present controversial programs with balance, fairness and equity coupled with § 48:23-9 prohibiting authority from supporting or opposing any political party or candidate for political office mandated balance, fairness and equity in authority's coverage of gubernatorial candidates and elections. *McGlynn v. New Jersey Public Broadcasting Authority*, 88 N.J. 112, 439 A.2d 54 (1981).

2. Preemption

This section regulating public broadcasting authority was not preempted by federal law where authority was instrumentality of state, owned and financed by state, and its officers appointed directly or indirectly by state governor. *McGlynn v. New Jersey Public Broadcasting Authority*, 88 N.J. 112, 439 A.2d 54 (1981).

3. Balance, fairness and equity

New Jersey Campaign Contributions and Expenditures Reporting Act, requir-

ing New Jersey Public Broadcasting Authority to provide balanced coverage of gubernatorial elections did not give independent candidate right to be included in any particular program or series of programs, including televised interactive debate. *Arons v. Donovan*, D.N.J.1995, 882 F.Supp. 379.

Public broadcasting authority did not violate its duty imposed by subd. (h) of § 48:23-7 to maintain balance, fairness and equity in its coverage of gubernatorial campaign by excluding certain gubernatorial candidates from week-long forum on issues to be aired during potentially pivotal final week of primary campaign where authority's overall coverage of election campaign was not unfair or imbalanced. *McGlynn v. New Jersey Public Broadcasting Authority*, 88 N.J. 112, 439 A.2d 54 (1981).

Candidate wishing to challenge coverage by public broadcasting authority of gubernatorial campaign will be required to prove that authority's coverage, examined over entire course of campaign, has been or threatens to be unreasonably imbalanced. *McGlynn v. New Jersey Public Broadcasting Authority*, 88 N.J. 112, 439 A.2d 54 (1981).

19:44A-40. Violations; misdemeanor; forfeiture of office

a. Any person who willfully and knowingly violates section 4, 9 or 10 of P.L.1974, c. 26¹ or section 17 of P.L.1980, c. 74 (C. 19:44A-18.1) is guilty of a crime of the fourth degree.

b. The election to office of any candidate who is guilty of any violation within the description of subsection a. of this section shall

be void, and the office shall be filled as required by law in the case of a vacancy; provided, however, that nothing herein contained shall be construed in derogation of the constitutional authority of either House of the Legislature to be the judge of the election and qualification of its own members.

L.1974, c. 26, § 15, eff. May 6, 1974. Amended by L.1980, c. 74, § 14, eff. July 23, 1980; L.1981, c. 511, § 13, eff. Jan. 12, 1982.

¹ N.J.S.A. §§ 19:44A-29, 19:44A-31 (repealed), 19:44A-34, 19:44A-35.

Historical and Statutory Notes

Statement: Committee statement to Senate, No. 1176—L.1980, c. 74, see § 19:44A-3.

19:44A-41. Violations; fines; hearings; assessment of penalty

a. Any person who willfully and knowingly violates sections 4, 6, 9, 10 or 19 of this act ¹ shall in addition to any other penalty provided by law, be liable to a penalty of not more than \$1,000.00 for the first offense and not more than \$2,000.00 for the second and each subsequent offense.

b. Upon receiving evidence of any violation of sections 4, 6, 9, 10 or 19 of this act, the Election Law Enforcement Commission shall have power to hold, or to cause to be held under the provisions of subsection d. of this section, hearings upon such violation and, upon finding any person to have committed such a violation, to assess such penalty, within the limits prescribed in subsection a. of this section, as it deems proper under the circumstances, which penalty shall be paid forthwith into the State Treasury for the general purposes of the State. Such penalty shall be enforceable in a summary proceeding under the "Penalty Enforcement Law" (N.J.S. 2A:58-1 et seq.).

c. In assessing any penalty under this section, the Election Law Enforcement Commission may provide for the remission of all or any part of such penalty conditioned upon the prompt correction of any failure, neglect, error or omission constituting the violation for which said penalty was assessed.

d. The commission may designate a hearing officer to hear complaints of violations of this act. Such hearing officer shall take testimony, compile a record and make factual findings, and shall submit the same to the commission, which shall have power to assess penalties within the limits and under the conditions prescribed in subsection b. of this section. The commission shall review the record and findings of the hearing officer, but it may also seek such additional testimony as it deems necessary. The commission's deter-

mination shall be by majority vote of the entire authorized membership thereof.

L.1974, c. 26, § 16, eff. May 6, 1974.

¹ N.J.S.A. §§ 19:44A-29, 19:44A-31 (repealed), 19:44A-34, 19:44A-35, 19:44A-44.

Library References

Elections ⇨ 323, 332.

WESTLAW Topic No. 144.

C.J.S. Elections §§ 353, 355.

19:44A-42. Liberal construction of act

The provisions of this act shall be construed liberally and applied so as to promote the purposes expressed herein.

L.1974, c. 26, § 17, eff. May 6, 1974.

19:44A-43. Severability

If any section, subsection, paragraph, sentence or other part of this act is adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of this act, but shall be confined in its effect to the section, subsection, paragraph, sentence or other part of this act directly involved in the controversy in which said judgment shall have been rendered.

L.1974, c. 26, § 18, eff. May 6, 1974.

19:44A-44. Borrowing by candidate; limitation; repayment; certification; failure to repay or certify; stoppage of payments from fund

Notwithstanding any provision of this act, any candidate in a primary election for the office of Governor, or his campaign treasurer or deputy campaign treasurer, or any candidate in a general election for the office of Governor, or his campaign treasurer or deputy treasurer may borrow funds from any national or State bank. No person or political committee, other than the candidate himself or the State committee of any political party in a general election, may in any way endorse or guarantee such loan in an amount in the aggregate in excess of \$1,500.00. The endorsement shall constitute a contribution for so long as the loan is outstanding. The amount borrowed by any such candidate or his campaign treasurer or deputy campaign treasurer shall in the aggregate not exceed \$50,000.00 and must be repaid in full by such candidate or his campaign treasurer or deputy campaign treasurer from moneys accepted or allocated pursuant to section 4 of P.L.1974, c. 26 (C.19:44A-29) 20 days prior to the date of the primary or general election for which the loan was made, and certification of such repayment shall be made by the borrower to

the Election Law Enforcement Commission in accordance with commission regulations.

Upon the failure of the borrower to repay the full amount borrowed on or before the twentieth day prior to the date of the primary or general election for the office of Governor, or to certify such repayment to the Election Law Enforcement Commission as required herein, all payments of moneys to such candidate from the fund for election campaign expenses pursuant to section 8 of P.L.1974, c. 26 (C.19:44A-33) shall promptly cease; and the Election Law Enforcement Commission shall forthwith seek and may obtain in a summary action in the Superior Court an injunction prohibiting the expenditure by any such candidate of any moneys received by him at any time from the fund for election campaign expenses pursuant to said section 8 of P.L.1974, c. 26 (C.19:44A-33), and any other moneys received by him in aid of or in behalf of his candidacy in said election.

L.1974, c. 26, § 19, eff. May 6, 1974. Amended by L.1980, c. 74, § 15, eff. July 23, 1980; L.1989, c. 4, § 7.

Historical and Statutory Notes

Retroactivity and severability of L.1989, c. 4, see Historical Note under § 19:44A-3.

Statement: Committee statement to Senate, No. 1176—L.1980, c. 74, see § 19:44A-3.

19:44A-45. Interactive gubernatorial primary and general election debates; participation by qualified candidates

a. In any year in which a primary election is to be held to nominate candidates for the office of Governor, there shall be held among the several candidates for each such nomination a series of interactive gubernatorial primary debates, in which all "qualified candidates," as defined by paragraph (3) or paragraph (4) of subsection m. of section 3 of P.L.1973, c. 83 (C.19:44A-3), for that nomination who have applied or who intend to apply to receive money for election campaign expenses under subsection a. of section 8 of P.L.1974, c. 26 (C.19:44A-33) shall participate, and in which any other candidate for that nomination who has deposited and expended the amount necessary, under paragraph (3) or paragraph (4) of subsection m. of section 3 of P.L.1973, c. 83 (C.19:44A-3), to be deemed a "qualified candidate" may elect to participate, provided that other candidate notifies the Election Law Enforcement Commission of the candidate's intent to so participate within the time allowed under those paragraphs for such notification to be made by candidates wishing to become qualified candidates; except that in any year in which no such candidate or only one such candidate for

that nomination is required or elects to participate, no gubernatorial primary debate shall be required to be held under this subsection.

b. In any year in which a general election is to be held for the office of Governor, there shall be held a series of interactive gubernatorial election debates, in which all "qualified candidates," as defined by paragraph (1) or paragraph (2) of subsection m. of section 3 of P.L.1973, c. 83 (C.19:44A-3), for election to that office who have applied or who intend to apply to receive money for election campaign expenses under subsection b. of section 8 of P.L.1974, c. 26 (C.19:44A-33) shall participate, and in which any other candidate for election to the office who has deposited and expended the amount necessary, under paragraph (1) or paragraph (2) of subsection m. of section 3 of P.L.1973, c. 83 (C.19:44A-3), to be deemed a "qualified candidate" may elect to participate, provided that other candidate notifies the Election Law Enforcement Commission of the candidate's intent to so participate within the time allowed under those paragraphs for such notification to be made by candidates wishing to become qualified candidates; except that in any gubernatorial election year in which no such candidate or only one such candidate for election to the office is required or elects to participate, no gubernatorial election debate shall be required to be held under this subsection.

L.1989, c. 4, § 9.

Historical and Statutory Notes

Retroactivity and severability of
L.1989, c. 4, see Historical Note under
§ 19:44A-3.

19:44A-46. Time and contents; sponsors

a. The series of gubernatorial primary debates under subsection a. of section 9 of P.L.1989, c. 4 (C. 19:44A-45) shall consist of two debates. Each of the debates shall be of at least one hour's duration. The first debate in the series shall occur not earlier than the date on which the ballot for the primary election in which candidates are to be nominated for election to the office of Governor is finally certified by the Secretary of State to the clerks of the several counties, and the second debate in the series shall occur not later than the 11th day prior to the primary election to select candidates for that office unless an emergency, as determined by the vote of a majority of the participating candidates, requires the postponement thereof, but the second gubernatorial primary debate shall in no event be held later than the second day preceding that primary election.

b. The series of gubernatorial election debates under subsection b. of section 9 of P.L.1989, c. 4 (C. 19:44A-45) shall consist of two

debates. Each of the gubernatorial election debates shall be of at least one hour's duration. The first debate in the series shall occur not earlier than the third Tuesday following the first Monday in September of the year in which a general election is to be held for the office of Governor, and the second debate in the series shall occur not later than the 11th day prior to the general election for that office unless an emergency, as determined by the vote of a majority of the participating candidates, requires the postponement thereof, but the final gubernatorial election debate shall in no event be held later than the second day preceding that general election.

c. Organizations which are not affiliated with any political party or with any holder of or candidate for public office, which have not endorsed any candidate in the pending primary or general election for the office of Governor, and which have previously sponsored one or more televised debates among candidates for Statewide office in the State since 1976, shall be eligible to sponsor one or more interactive gubernatorial primary debates or interactive gubernatorial election debates under subsection a. or subsection b., respectively, of this section. In addition, any association of two or more separately owned news publications or broadcasting outlets, including newspapers, radio stations or networks, and television stations or networks, having between or among them a substantial readership or audience in this State, and any association of print or broadcast news or press service correspondents having among them a substantial readership or audience in this State, shall be eligible to sponsor any such gubernatorial primary or gubernatorial election debate, without regard to whether that association or any of its members shall previously have sponsored any debate among candidates for Statewide office.

The Election Law Enforcement Commission shall accept applications from eligible organizations and eligible associations of news publications and broadcasting outlets or news or press service correspondents to sponsor one or more of those interactive gubernatorial debates. Applications to sponsor debates under subsection a. shall be submitted to the commission no later than March 15 of any year in which a primary election is to be held to nominate candidates for the office of Governor, and applications to sponsor debates under subsection b. shall be submitted to the commission no later than July 1 of any year in which a general election is to be held to fill the office of Governor.

Where the number of eligible applicants to sponsor gubernatorial primary debates or gubernatorial election debates exceeds the number prescribed under subsection a. and subsection b. of this section, respectively, the Election Law Enforcement Commission shall select

the sponsors from among the applicants within 30 days of the last day for submitting those applications, as provided by this subsection. To the maximum extent practicable and feasible, the commission shall select a different sponsor for each of the interactive gubernatorial debates, but shall not be precluded from selecting the same sponsor for more than one debate.

The sponsors selected by the commission shall be responsible for selecting the date, time and location of the debates, subject to the limitations set forth in this section. The rules for conducting each debate shall be solely the responsibility of the sponsors so selected, but shall not be made final without consultation with both the chairman of the New Jersey Republican State Committee and the chairman of the New Jersey Democratic State Committee in the case of gubernatorial primary debates, and with a representative designated by each of the participating candidates in the case of gubernatorial election debates.

L.1989, c. 4, § 10. Amended by L.1991, c. 317, § 1, eff. Nov. 19, 1991.

Historical and Statutory Notes

Retroactivity and severability of
L.1989, c. 4, see Historical Note under
§ 19:44A-3.

19:44A-47. Failure of candidate to participate in debates; complaint; hearing; determination; penalties

The Election Law Enforcement Commission shall have the power and duty, upon receipt of a complaint against a candidate for nomination for election or for election for the office of Governor who is required to participate in gubernatorial primary debates or gubernatorial election debates, respectively, to hold a hearing to determine whether that candidate has failed to participate in such debates. If, at the conclusion of a hearing under this section, the commission determines by majority vote that a candidate required to participate under section 10 of this 1989 amendatory and supplementary act has failed to do so, the chairman shall immediately inform the candidate in writing of that determination, identifying in that writing the date and circumstances of the failure. If, after having found that a candidate required to participate in a gubernatorial primary or gubernatorial election debate has failed to do so, the commission further finds that the failure occurred under circumstances which were beyond the control of the candidate and of such a nature that a reasonable person, taking into account the purposes of this act and the relevant facts of the case, would find the failure justifiable or excusable, then the candidate shall not be subject to any penalty or liability for his failure to participate. The candidate charged with the

failure to participate shall have the burden of showing justification or excuse.

The campaign of any candidate or former candidate who shall have been required to participate in a gubernatorial primary debate or gubernatorial election debate under this 1989 amendatory and supplementary act, but who shall have been found to have failed to do so without reasonable justification or excuse, shall be liable for return of moneys previously received for use by the candidate to pay primary election campaign expenses or general election campaign expenses, respectively. The commission shall determine the total amount of moneys for election campaign expenses in that year by the commission to the candidate under subsection a. or subsection b. of section 8 of P.L.1974, c. 26 (C.19:44A-33), as appropriate, and shall notify the campaign treasurer or the deputy campaign treasurer of the candidate of the liability of the campaign of the candidate, as of the date of the notice, for the repayment of those moneys plus interest on the unpaid amount of that liability from that date at the rate of 1% for each month or fractional part of a month during which that amount remains unpaid.

L.1989, c. 4, § 11.

Historical and Statutory Notes

Retroactivity and severability of
L.1989, c. 4, see Historical Note under
§ 19:44A-3.

SUBTITLE 12B

FINANCIAL DISCLOSURE BY CANDIDATES

Chapter

44B. Gubernatorial Legislative Disclosure Statement.

CHAPTER 44B

GUBERNATORIAL LEGISLATIVE DISCLOSURE STATEMENT

Section

- 19:44B-1. Definitions.
- 19:44B-2. Financial disclosure statement; filing and certification.
- 19:44B-3. Forms; preparation; transmittal to candidates.
- 19:44B-4. Contents.
- 19:44B-5. Notice to commission of candidates by secretary of state.
- 19:44B-6. Willful and knowledgeable failure to file or filing false statement; penalty.
- 19:44B-7. Powers and duties of commission.
- 19:44B-8. Candidate with responsibility for filing reports or documents; failure to file or omission in or incorrect statement; penalty; hearings; enforcement.
- 19:44B-9. Financial disclosure statements as public records.
- 19:44B-10. Use in investigations and production in evidence.

Library References

Elections \Leftrightarrow 317.

WESTLAW Topic No. 144.

C.J.S. Elections § 329.

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19:44B-1. Definitions

As used in this act:

a. "Gift" means any money or thing of value received other than as income, and for which a consideration of equal or greater value is not received, but does not include any political contribution reported as otherwise required by law, any loan made in the ordinary course of business, or any devise, bequest, intestate estate distribution or principal distribution of a trust or gift received from a member of a person's household or from a relative within the third degree of consanguinity of the person or his spouse, or from the spouse of that relative;

b. "Income" means any money or thing of value received, or to be received, as a claim on future services, whether in the form of a fee, expense, allowance, forbearance, forgiveness, interest, dividend, royalty, rent, capital gain, or any other form of recompense, or any combination thereof;

c. "Member of household" means the spouse of a candidate for the office of Governor or of a candidate for the Senate or General Assembly residing in the same domicile and any dependent children.

L.1981, c. 129, § 1, eff. May 1, 1981.

Historical and Statutory Notes**Title of Act:**

An Act requiring the filing of financial disclosure statements by candidates for

the office of Governor and for the Legislature and supplementing Title 19 of the Revised Statutes. L.1981, c. 129.

Library References

Words and Phrases (Perm.Ed.)

19:44B-2. Financial disclosure statement; filing and certification

Every candidate for the office of Governor and every candidate for the Senate or General Assembly shall file and certify the correctness of a financial disclosure statement on or before the tenth day following the last day for filing a petition to appear on the ballot, and the financial disclosure statement shall be filed with the Election Law Enforcement Commission in the Department of Law and Public Safety.

L.1981, c. 129, § 2, eff. May 1, 1981.

19:44B-3. Forms; preparation; transmittal to candidates

The commission shall prepare and transmit to each candidate for the office of Governor and to each candidate for the Senate or

General Assembly forms for the filing of financial disclosure statements required by this act.

L.1981, c. 129, § 3, eff. May 1, 1981.

19:44B-4. Contents

Financial disclosure statements shall include the sources of income received from sources other than the State during the preceding calendar year by the candidate and members of his household. Without disclosing the amounts of income, gifts, reimbursements, and holdings, the statements shall include the following:

a. Each of the following categories of earned income totalling more than \$1,000.00: salaries, bonuses, royalties, fees, commissions and profit sharing received as an officer, employee, partner or consultant of a named corporation, professional association, partnership or sole proprietorship;

b. Each of the following categories of unearned income totalling more than \$1,000.00: rents, dividends and other income received from named investments, trusts and estates;

c. Fees and honorariums totalling more than \$100.00 received from named payers for personal appearances, speeches or writings;

d. Reimbursements totalling more than \$100.00 for travel, subsistence or facilities provided in kind received from named payers or providers other than the State, any political subdivision thereof, a principal employer, or a nonprofit organization;

e. Gifts having a value totalling more than \$250.00 received from named donors; and

f. Ownership, holding, or control of an interest in any land or building in any city in which casino gambling is authorized, which land or building shall be specified.

L.1981, c. 129, § 4, eff. May 1, 1981.

American Law Reports

Validity and construction of orders and enactments requiring public officers and employees, or candidates for of-

fice, to disclose financial condition, interests, or relationships, 22 ALR4th 237.

Library References

Texts and Treatises

63A Am Jur 2d, Public Officers and Employees §§322, 323, 325.

19:44B-5. Notice to commission of candidates by secretary of state

Upon receipt from any person of a declaration of candidacy or a petition to appear on the ballot for election as Governor or as a member of the Legislature, the Secretary of State shall, within 2 days of the receipt, notify the commission of the name and address of the candidate and the date of the receipt.

L.1981, c. 129, § 5, eff. May 1, 1981.

19:44B-6. Willful and knowledgeable failure to file or filing false statement; penalty

a. A candidate who willfully and knowingly fails or refuses to file a financial disclosure statement on a date prior to the election for which he has filed a declaration of candidacy or a petition to appear on the ballot shall be guilty of a crime of the fourth degree.

b. A candidate who willfully and knowingly files any financial disclosure statement which is false, inaccurate or incomplete in any substantial and material manner or particular, shall be guilty of a crime of the fourth degree.

L.1981, c. 129, § 6, eff. May 1, 1981.

Cross References

Disposition of offenders, see § 2C:43-1 et seq.

19:44B-7. Powers and duties of commission

It shall be the duty of the commission to investigate and conduct hearings with regard to possible violations and impose penalties, to issue subpoenas for the production of documents and the attendance of witnesses, and to enforce the provisions of this act in the manner set forth in "The New Jersey Campaign Contributions and Expenditures Reporting Act," P.L.1973, c. 83 (C.19:44A-1 et seq.). The commission shall have the authority to initiate a civil action in the Superior Court of New Jersey or in any court of competent jurisdiction for the purpose of enforcing compliance with the provisions of this act or enjoining violations thereof or recovering any penalty prescribed by this act. The commission shall promulgate such regulations and official forms and perform such duties as are necessary to implement the provisions of this act.

L.1981, c. 129, § 7, eff. May 1, 1981.

Administrative Code References

Personal financial disclosure statements, see N.J.A.C. 19:25-19.1 et seq.

19:44B-8. Candidate with responsibility for filing reports or documents; failure to file or omission in or incorrect statement; penalty; hearings; enforcement

a. Any candidate charged with the responsibility under the terms of this act for the filing of any reports or other documents required to be filed pursuant to this act who fails, neglects or omits to file any such report or document at the time and in the manner prescribed by law, or who omits or incorrectly states any of the information required by law to be included in such report or document, shall, in addition to any other penalty provided by law, be liable to a penalty of not more than \$1,000.00 for the first offense and not more than \$2,000.00 for the second and each subsequent offense.

b. Upon receiving evidence of any violation of this section, the Election Law Enforcement Commission shall have power to hold, or to cause to be held, hearings upon such violation and, upon finding any person to have committed such a violation, to assess such penalty, within the limits prescribed in subsection a. of this section, as it deems proper under the circumstance which penalty shall be paid forthwith into the State Treasury for the general purposes of the State. Such penalty shall be enforceable in a summary proceeding under the "Penalty Enforcement Law" (N.J.S. 2A:58-1 et seq.).

c. In assessing any penalty under this section, the Election Law Enforcement Commission may provide for the remission of all or any part of the penalty conditioned upon the prompt correction of any failure, neglect, error or omission constituting the violation for which the penalty was assessed, provided the correction is made on a date prior to the election for which the candidate has filed a declaration of candidacy or petition to appear on the ballot.

L.1981, c. 129, § 8, eff. May 1, 1981.

Notes of Decisions

Penalties 1

1. Penalties

Failure to certify and file a personal financial disclosure statement in connection with one's candidacy for office of governor warranted imposition of a mon-

etary penalty; mailings with respect to filing requirement were sent to address candidate himself had listed on his nominating petition and, since mailings were certified and were not returned as undelivered, it was more likely than not that mailings were received by candidate. Election Law Enforcement Com'n v. Grant, 95 N.J.A.R.2d (ELE) 1 (1995).

19:44B-9. Financial disclosure statements as public records

Financial disclosure statements required to be filed pursuant to this act shall be public records. The commission shall make the statements available to any person upon written request. The statements shall be available for examination and copying during the

normal business hours of the commission. No fee shall be charged for the inspection of the statements, but a fee, equal to the cost of copying, may be charged for the use of equipment to copy the statements and a reasonable charge may be imposed for the performance of copying services by personnel of the commission when the person desiring copies requests that assistance.

L.1981, c. 129, § 9, eff. May 1, 1981.

19:44B-10. Use in investigations and production in evidence

A financial disclosure statement filed pursuant to this act may be used by the commission in the course of its investigation of any alleged violation of provisions of this act and may be produced as evidence in any hearing conducted by the commission concerning a violation.

L.1981, c. 129, § 10, eff. May 1, 1981.

SUBTITLE 13

PUBLIC ELECTION EXPENSES

Chapter

45. Liability For.

CHAPTER 45

LIABILITY FOR

Section

- 19:45-1. Payable by state and political subdivisions.
19:45-1.1. Special election to fill vacancy in senate or general assembly; payment of expenses by state; notice.
19:45-2. State's expenses.
19:45-3. Expenditures by attorney general to prosecute violations of title.
19:45-4. County's expenses.
19:45-5. Municipality's expenses.
19:45-6. Compensation of members of district boards.
19:45-6.1. Voucher for compensation.
19:45-7. Members of county boards; commissioner of registration; compensation.
19:45-8. Compensation of judges holding court.
19:45-9. Compensation of county and municipal clerks.

Library References

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| Counties ⌘134. | C.J.S. Counties § 174. |
| Municipal Corporations ⌘259. | C.J.S. Municipal Corporations § 1032. |
| States ⌘111. | C.J.S. States §§ 194, 195. |
| WESTLAW Topic Nos. 104, 268, 360. | |

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19:45-1. Payable by state and political subdivisions

All general elections, special elections, municipal elections, primary elections for general elections and primary elections for delegates and alternates to national conventions held in the state or in any of its political subdivisions shall be conducted at the expense of the state or its political subdivisions.

Historical and Statutory Notes

Source: L.1930, c. 187, ¶552, p. 936.

19:45-1.1. Special election to fill vacancy in senate or general assembly; payment of expenses by state; notice

Notwithstanding the provisions in chapter 45 of Title 19¹ of the Revised Statutes to the contrary, the State shall pay all expenses incurred by any of its political subdivisions in connection with any special election held for the purpose of filling a vacancy occurring in the Senate or General Assembly. When such a special election has been held, the Secretary of State shall notify all affected political subdivisions that the State shall pay all expenses incurred in connection with that election.

L.1981, c. 429, § 7, eff. Jan. 9, 1982. Amended by L.1987, c. 253, § 1, eff. Aug. 27, 1987.

¹ N.J.S.A. § 19:45-1 et seq.

19:45-2. State's expenses

All costs, charges and expenses incurred by the State Board of Canvassers, Secretary of State or any other officer or official of the State government in carrying out any provisions of this Title shall be paid by the State.

Amended by L.1987, c. 151, § 1, eff. June 25, 1987.

Historical and Statutory Notes

Source: L.1930, c. 187, ¶553, p. 936.

19:45-3. Expenditures by attorney general to prosecute violations of title

The attorney general is hereby authorized to expend annually, under the direction and with the approval of the governor, a sum not exceeding twenty-five thousand dollars, for the purpose of securing evidence of violations of this title and assisting in the prosecution of such violations, when such sum shall be regularly appropriated in any annual or supplemental appropriation bill.

Historical and Statutory Notes

Source: L.1930, c. 187, ¶554, p. 937.

19:45-4. County's expenses

All costs, charges and expenses incurred by the county clerk, county board, commissioner, superintendent, or any other officer or official of a county in carrying out the provisions of this title and the salaries of the members of the county board, commissioner, superintendent, salaries and compensation for extra service of the clerk and other employees of the county board and the compensation of the members of the district boards, except as herein otherwise provided, shall be paid by the county upon certification by the county clerk, county board, commissioner, superintendent or other county officer or official; but the board of chosen freeholders of any county, to facilitate the prompt payment of the compensation of members of district boards and the rental of polling places, is authorized to pay to the several municipal clerks in the county one payment for the gross amount due for such compensation and rentals in the municipality and direct the municipal clerks to pay the individual amounts due the members of the district boards and the lessors of the polling places in the municipality upon the proper certification of the county board. Where any municipality may provide voting machines there shall be paid by the county to such municipality the difference between the costs, charges and expenses incurred and the costs, charges and expenses which would have been incurred had such voting machines not been provided by such municipality, including the saving in rental of polling places and in compensation paid to members of district boards resulting from consolidation of or reduction in number of election districts, and including the saving resulting from the payment of a lesser rate of compensation to members of district boards where such machines are provided by the municipality.

Historical and Statutory Notes

Source:

L.1930, c. 187, ¶555, p. 937.

L.1932, c. 240, § 1, p. 535.

L.1936, c. 146, § 2, p. 345.

Notes of Decisions

Joint liability 1
Mandatory funding 3
Printing costs 2

1. Joint liability

The county, under L.1890, p. 361, repealed must pay one-half the expense of canvassing and making the registry, and

each city and township one-half, because it is used in every election. The county was to pay the cost of revising the registry for the November election, and each township was to pay for revising the registry for its spring election, and the city was to pay for revising the registry for its October election. *State v. City of Newark*, 53 N.J.L. 534, 22 A. 55 (1891).

The expenses of erecting booths under the election law of 1890, L.1890, p. 361, repealed were to be borne equally by the county and the city because they were used both in county and city elections. *State v. City of Newark*, 53 N.J.L. 534, 22 A. 55 (1891).

2. Printing costs

Adoption of voting machines in county is not intended by Legislature to alter general provisions concerning responsibility for cost of printing ballots. Atty. Gen. F.O.1961, No. 1.

Cost of printing sample ballots and official ballots for general election is to be borne by the counties. Atty.Gen. F.O. 1961, No. 1.

3. Mandatory funding

Plain language of N.J.S.A. 19:45-4 requiring payment of expenses incurred by

county election board, along with related statutory provisions and applicable provisions of Local Budget Law [N.J.S.A. 40A:4-1 et seq.], demarcated requirements that certain items contained in election board's certified annual budget were mandatorily fundable while freeholder board had discretion in funding of other items. *Trainor v. Burlington County Bd. of Chosen Freeholders*, 216 N.J.Super. 289, 523 A.2d 682 (A.D.1987), certification denied 108 N.J. 209, 528 A.2d 29.

Board of freeholders could not refuse to provide resources to either board of elections or superintendent of elections, since statutory provisions relating to needs of the board and superintendent are not discretionary, but mandatory. *Trainor v. Burlington County Bd. of Chosen Freeholders*, 200 N.J.Super. 288, 491 A.2d 69 (L.1984).

19:45-5. Municipality's expenses

All costs, charges and expenses incurred by the municipal clerk or any other officer or official of a municipality in carrying out the provisions of this title shall be paid by such municipality except as herein otherwise provided.

Where any election is held in and for a municipality only, all costs, charges and expenses, including the compensation of the members of the district boards of the municipality and the compensation and expenses of the county board and the clerk thereof, for such elections, shall be paid by the municipality.

Historical and Statutory Notes

Source: L.1930, c. 187, §556, p. 937.

Notes of Decisions

Joint liability 1

1. Joint liability

The expense of canvassing and making a registry in the city of Newark, county of Essex, under L.1890, p. 361, repealed, were required to be paid, one-half by the county, and the other half by the city and township, because it was used by each in every election. The cost of revising the registry must be paid for by the county,

city, or township, respectively, when the revision is used in the elections peculiar to each. *State v. City of Newark*, 53 N.J.L. 534, 22 A. 55 (1891).

The expenses of erecting booths under the Election Law of 1890, L.1890, p. 361, repealed were to be borne equally by the county and the city because they were used both in county and city elections. *State v. City of Newark*, 53 N.J.L. 534, 22 A. 55 (1891).

19:45-6. Compensation of members of district boards

The compensation of each member of the district boards for all services performed by them under the provisions of this Title shall be as follows:

In all counties, for all services rendered including the counting of the votes, and in counties wherein voting machines are used, the tabulation of the votes registered on the voting machines, and the delivery of the returns, registry binders, ballot boxes and keys for the voting machines to the proper election officials, \$75.00 each time the primary election, the general election or any special election is held under this Title, except that the governing body of a county may, by ordinance or resolution as appropriate, provide that such amount shall be \$100 for the members of each district board within the county performing those services at such an election; provided, however, that:

a. (1) The member of the board charged with the duty of obtaining and signing for the signature copy registers shall receive an additional \$12.50 per election, such remuneration being limited to only one board member per election, or \$6.25 to each of two board members if they share such responsibility for the signature copy registers, and (2) the member of the board charged with the duty of returning the signature copy registers shall receive an additional \$12.50 per election, such remuneration being limited to only one board member per election, or \$6.25 to each of two board members if they share such responsibility for the signature copy registers;

b. In the case of any member of the board who is required under R.S. 19:50-1 to attend in a given year a training program for district board members, but who fails to attend such a training program in that year, that compensation shall be \$50.00 for each of those elections;

c. In counties wherein voting machines are used no compensation shall be paid for any services rendered at any special election held at the same time as any primary or general election. Such compensation shall be in lieu of all other fees and payments; and

d. Compensation for district board members serving at a school election shall be paid by the board of education of the school district conducting the election at an hourly rate of \$5.77, except that the board of education may compensate such district board members at an hourly rate of \$7.69 if the school district is within a county that provides that the compensation for its district board members at a primary, general or special election is \$100. The provisions of subsections a., b., and c. of this section shall also apply to district

board members serving at a school election, except that in the case of subsection b., the compensation shall be at an hourly rate of \$3.85.

Compensation due each member shall be paid within 30 days but not within 20 days after each election; provided, however, that no compensation shall be paid to any member of any such district board who may have been removed from office or application for the removal of whom is pending under the provisions of R.S. 19:6-4.

Amended by L.1941, c. 275, p. 475, § 9; L.1944, c. 152, p. 580, § 1; L.1946, c. 261, p. 919, § 8; L.1952, c. 97, p. 341, § 1; L.1953, c. 88, p. 1013, § 1; L.1954, c. 15, p. 69, § 1; L.1955, c. 33, p. 88, § 1; L.1960, c. 128, p. 633, § 1; L.1972, c. 155, § 1, eff. Sept. 20, 1972; L.1980, c. 111, § 1, eff. Jan. 1, 1981; L.1984, c. 9, § 1, eff. Feb. 22, 1984; L.1987, c. 151, § 2, eff. June 25, 1987; L.1995, c. 193, § 1, eff. Aug. 2, 1995; L.1995, c. 278, § 21, eff. March 14, 1996; L.1997, c. 48, § 1, eff. March 27, 1997.

Historical and Statutory Notes

L.1995, c. 278, § 21, was corrected by the Legislative Counsel with the concurrence of the Attorney General under the authority of § 1:3-1 to incorporate the inadvertently omitted provisions of the amendment of this section by L.1995, c. 193, § 1, in the opening par., by authorizing the county to set the district board members' compensation at \$100; and, by making technical corrections.

Source: L.1930, c. 187, § 557, p. 938, amended by L.1933, c. 24, § 1, p. 40; L.1933, c. 228, § 1, p. 484; L.1936, c. 146, § 3, p. 346; L.1936, c. 203, § 5, p. 503.

Section 2 of L.1980, c. 111, approved Sept. 19, 1980, provides:

"This act shall take effect January 1, 1981."

Library References

Elections ¶53.

WESTLAW Topic No. 144.

C.J.S. Elections § 63.

Notes of Decisions

Diminution of duties 1 Repeals 2

1. Diminution of duties

Compensation of a public officer such as an election official belongs to him not by the force of any contract, but because the law attaches it to the office, and it is not affected by diminution of the duties of the office, the office itself remaining. *Bennett v. City of Orange*, 69 N.J.L. 675, 56 A. 1131 (1903).

2. Repeals

Where amendment of this section by Laws 1936, ch. 146, § 3, approved June

17, 1936, incorporated in this section, provided that, in districts using voting machines, \$10 should be paid for services rendered at a primary election, and thereafter amendment of this section by Laws 1936, ch. 203, § 5, approved June 22, 1936, this section, fixed fee for the services at \$15 whether voting machines were used or not, latter act repealed the former, so that a person who rendered services in county primary election where voting machines were used was entitled to \$15 fee. *Gross v. Essex County Board of Elections*, 120 N.J.L. 71, 198 A. 293 (1938).

19:45-6.1. Voucher for compensation

A voucher for compensation for services rendered by members of any district board of elections in this State for performing any of the services mentioned in section 19:45-6 of the Revised Statutes shall be submitted to the respective county boards of elections on a form prepared by said county boards of elections. This form shall contain a written declaration to be signed by the individual members of the district board of elections, in lieu of any requirement elsewhere for an oath or affirmation, in which such district board members shall state "I hereby declare under the penalties for false swearing that this voucher is for services performed by me for the election herein mentioned and to the best of my knowledge and belief is true, correct and complete."

Any individual who willfully makes and subscribes any such voucher which he or she does not believe to be true and correct as to every material matter shall be guilty of a misdemeanor.

Upon certification by the county board of elections as correct such vouchers shall be paid by the county treasurer in the manner provided in section 19:45-4 et seq. of the Revised Statutes.

L.1952, c. 62, p. 384, § 1.

Historical and Statutory Notes

Title of Act: of the Revised Statutes. L.1952, c. 62, p. 384.
An Act concerning elections, and supplementing chapter forty-five of Title 19

19:45-7. Members of county boards; commissioner of registration; compensation

The compensation of the members of the several county boards shall be no less than the minimum salary and no more than the maximum salary as follows:

County Population	Minimum Salary	Maximum Salary
Over 550,000	\$8,700	\$17,600
300,000 to 550,000	\$6,000	\$15,000
150,000 to 300,000	\$4,500	\$12,000
120,000 to 150,000	\$3,700	\$11,000
Under 120,000	\$3,200	\$10,500

provided, however, that any increases herein granted shall be effected only upon the approval of the governing body in the county affected.

The compensation fixed and determined under any of the foregoing classifications shall include all services rendered by any county board

in conducting all elections, and in connection with any recount or recheck after any such election.

The members of the county board in counties other than counties of the first class and in counties of the first class not having a superintendent of elections who shall be elected as chairman and secretary thereof and who shall perform the duties of chairman and secretary thereof shall each receive an additional compensation of one-half of the compensation of the individual members of the board.

The commissioner of registration in a county of the first class having a superintendent of elections shall receive such salary per annum as the governing body of such county may by resolution authorize, but not less than \$10,000 , for services performed as such commissioner of registration, and the commissioner of registration in a county of the second class having a superintendent of elections shall receive such salary per annum as the governing body of such county may by resolution authorize, but not less than \$2,500 , for services performed as such commissioner of registration, and for such services performed by a commissioner of registration in a county not having a superintendent of elections additional compensation shall be paid to such commissioner in an amount equal to 50% of his salary as member and secretary of the county board. In counties of the second class and in counties of the first class not having a superintendent of elections where a member of the county board serves as commissioner of registration, he shall receive no additional compensation for the performance of his duties as such commissioner unless he shall devote his full time to the performance of his duties as member of the county board, secretary thereof, and commissioner of registration. "Full time" as here used means such time as is duly required of employees in the office of the county board. Notwithstanding the above, the commissioner of registration in a county having a superintendent of elections, upon the approval of the governing body of the county, shall receive a salary not less than the maximum which the secretary of a county board of elections in a county of the same class, not having a superintendent of elections, would receive for performing the duties of secretary and commissioner of registration. This minimum does not reduce the current base salary for any superintendent who also serves as commissioner of registration.

Amended by L.1940, c. 165, p. 520, § 4; L.1941, c. 324, p. 865, § 1; L.1944, c. 178, p. 678, § 1; L.1947, c. 168, p. 762, § 23; L.1948, c. 183, p. 927, § 1; L.1951, c. 268, p. 931, § 1; L.1957, c. 83, p. 160, § 2; L.1958, c. 136, p. 638, § 1; L.1961, c. 59, p. 553, § 5; L.1965, c. 50, § 1, eff. Jan. 1, 1966; L.1975, c. 256, § 2, eff. Dec. 1, 1975; L.1980, c. 186, § 1, eff. Jan. 12, 1981; L.1981, c. 462, § 27; L.1989, c. 160, § 4, eff. Aug. 11, 1989; L.1998, c. 91, § 3, eff. Sept. 1, 1998.

Historical and Statutory Notes

Source: L.1930, c. 187, ¶558, p. 938, Effective date of L.1981, c. 462, see amended by L.1933, c. 174, § 2, p. 374. Historical Note under § 2A:4-4.

Cross References

Clerks and office employees, compensation, see § 19:6-17.

19:45-8. Compensation of judges holding court

Each of the judges holding court, as herein required, shall be entitled to receive the sum of twenty dollars for each day he shall be personally present, pursuant to the provisions of this title, in addition to the salary to which he is now entitled by law, which sum shall be paid by the treasurer of the county as other court expenses are paid.

Historical and Statutory Notes

Source: L.1930, c. 187, ¶559, p. 940.

19:45-9. Compensation of county and municipal clerks

The boards of chosen freeholders in the several counties may pay the county clerks for extra duties and services imposed upon and performed by them under this title an amount to be fixed by such boards. The governing bodies of the several municipalities may pay the municipal clerks for extra duties and services imposed upon and performed by them under this title an amount to be fixed by such governing body.

Historical and Statutory Notes

Source: L.1930, c. 187, ¶560, p. 940.

SUBTITLE 14

CONGRESSIONAL DISTRICTS

Chapter

46. Districts Constituted.

CHAPTER 46

DISTRICTS CONSTITUTED

Section

- 19:46-1. Repealed.
- 19:46-2, 19:46-3. Repealed.
- 19:46-4, 19:46-5. Repealed.
- 19:46-6. New Jersey Redistricting Commission established.
- 19:46-7. Membership; appointment; qualifications.
- 19:46-8. Organizational meeting; calling of meetings; quorum; vacancies.
- 19:46-9. Certification of congressional districts or congressional district plan; vote.
- 19:46-10. Congressional district plan; standards; equality of population; ethnic or racial fragmentation prohibited; contiguity; continuity.
- 19:46-11. Meetings of commission; open public meetings act inapplicable.
- 19:46-12. Use of established congressional districts.
- 19:46-13. Jurisdiction of courts over actions of commission; precedence; expedited judgment.
- 19:46-14. Staff and employees.

Law Review and Journal Commentaries

Suit to enjoin enforcement of state act apportioning congressional election districts held not to present a justiciable controversy. (1947) 1 Rutgers L.Rev. 152.

Library References

United States \S 10.
WESTLAW Topic No. 393.
C.J.S. United States \S 12.

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19:46-1. Repealed by L.1966, c. 156, § 3, eff. June 18, 1966

Historical and Statutory Notes

The repealed section, amended by L.1954, c. 8, p. 52, § 1; L.1961, c. 26, p. 115, § 1; L.1962, c. 11, p. 100, § 1; and derived from L.1912, c. 411, § 1, p. 912 [1924 Suppl. § 65-3401]; L.1931, c. 407, § 1, p. 1476, set forth the districts and their boundaries for the election of members of the House of Representatives.

19:46-2, 19:46-3. Repealed by L.1982, c. 1, § 3, eff. Jan. 19, 1982

Historical and Statutory Notes

The repealed sections, added by L.1966, c. 156, §§ 1, 2, and amended by L.1966, c. 183, § 1; L.1967, c. 235, § 1; L.1968, c. 11, § 1, related to title of act, districts and boundaries. See, now, §§ 19:46-4, 19:46-5.

19:46-4, 19:46-5. Repealed by L.1991, c. 510, § 11, eff. Jan. 15, 1992

Historical and Statutory Notes

Repealed §§ 19:46-4, 19:46-5, relating to the enumeration and boundaries of congressional districts for the state of New Jersey, were derived from:
L.1966, c. 156, §§ 1, 2. L.1966, c. 183, § 1.
L.1967, c. 235, § 1.
L.1968, c. 11, § 1.
L.1982, c. 1, §§ 1, 2.

19:46-6. New Jersey Redistricting Commission established

Section to expire on Jan. 1, 2001, pursuant to L.1991, c. 510, § 12, set out as a note below.

There is hereby established the New Jersey Redistricting Commission, which shall establish the Congressional districts for use in the decade of the 1990s.

L.1991, c. 510, § 1, eff. Jan. 15, 1992.

Historical and Statutory Notes

L.1991, c. 510, § 12, approved Jan. 21, 1992, provides: "This act shall take effect January 15, 1992 and sections 1 through 9

[§§ 19:46-6 to 19:46-14] shall expire on January 1, 2001."

Title of Act:

An Act establishing the New Jersey Redistricting Commission, supplementing

Title 19 of the Revised Statutes, repealing sections 1 and 2 of P.L.1982, c. 1 and making an appropriation.

Notes of Decisions

**Constitutionality 1
Powers of commission 2**

1. Constitutionality

Power to adopt congressional redistricting plan was not unconstitutionally delegated to Redistricting Commission. *Brady v. New Jersey Redistricting Com'n*, 131 N.J. 160, 619 A.2d 1005 (1992).

2. Powers of commission

Redistricting Commission entrusted with formulating congressional reapportionment plan retained power to correct clerical errors in "data compilation," which was typewritten summary that purported to reflect content of "master plan" which was on computer, after

plan's statutory submission date; act which established Commission expired approximately nine years after submission date, such that act clearly contemplated that Commission would remain in effect and could take steps necessary to fulfill its statutory mandate after submission date, and fact that document of size and complexity of "data compilation," prepared in two months, would contain some transcription or typographical errors was not only foreseeable, but probably inevitable and it could not be imagined that legislature intended Act to impose all or nothing requirement of perfect written transposition. *Brady v. New Jersey Redistricting Com'n*, 131 N.J. 594, 622 A.2d 843 (1992).

19:46-7. Membership; appointment; qualifications

Section to expire on Jan. 1, 2001, pursuant to L.1991, c. 510, § 12, set out as a note under §. 19:46-6.

a. The commission shall consist of 13 members. The members of the commission shall be appointed with due consideration to geographic, ethnic and racial diversity and in the manner provided herein.

b. There shall first be appointed 12 as follows:

(1) two members to be appointed by the President of the Senate;

(2) two members to be appointed by the Speaker of the General Assembly;

(3) two members to be appointed by the minority leader of the Senate;

(4) two members to be appointed by the minority leader of the General Assembly; and

(5) four members, two to be appointed by the chairman of the State committee of the political party whose candidate for Governor received the largest numbers of votes at the most recent gubernatorial election and two to be appointed by the chairman of the State committee of the political party whose candidate for Governor received the next largest number of votes at that election.

Appointments to the commission under this subsection shall be made as soon as practicable after the enactment of this act but not later than the seventh day after enactment and shall be certified by the appointing authorities to the Secretary of State as soon as practicable thereafter but no later than the fifth day after the appointments are made.

c. There shall then be appointed one member, to serve as an independent member, who shall not have held elected public or party office in this State at any time during the three year period immediately prior to appointment to the commission. The independent member shall be appointed by the previously appointed members of the commission as follows: the members appointed by the appointing officials of the political party whose candidate for Governor received the largest number of votes at the preceding gubernatorial election shall as a group select three nominees meeting the foregoing qualifications, and the members appointed by the appointing officials of the political party whose candidate for Governor received the next largest number of votes at that election shall do the same. If one person is nominated by both groups, then that person shall be the independent member, and if more than one person is nominated by both groups, the previous appointees shall by lot choose one of them to be the independent member. If no person is nominated by both groups, the members shall elect the independent member by ballot upon the vote of seven of the previously appointed members.

Appointment to the commission of the independent member under this subsection shall be made as soon as practicable but no later than the seventh day after the appointment of the other members of the commission and the certification shall be made as soon as practicable thereafter but no later than the fifth day after the appointment is made. Once selected, the independent member shall serve as chairman of the commission. If the other members are unable to appoint an independent member within the time allowed therefor, the appointment of those other members shall be void and each of the appointing officials shall, as soon as practicable, appoint to be members of the commission persons other than those originally selected to be members and the selection process of the independent member shall proceed again as provided for by this section.

d. No person shall serve as a member of the commission who is a member of the Congress of the United States or a Congressional employee or has served as such during the one-year period prior to the appointment of the members of the commission.

L.1991, c. 510, § 2, eff. Jan. 15, 1992.

Historical and Statutory Notes

For effective date and expiration of L.1991, c. 510, see note set out under § 19:46-6.

Notes of Decisions

Validity 1

1. Validity

Group of residents in congressional district alleging that they were deprived of voice in congressional reapportionment plan because no citizen of their district

had been included in Redistricting Commission's membership and because of certain procedures employed by Commission in conduct of its public meetings did not state equal protection violation; residents failed to point to any classification that excluded them from participation. *Brady v. New Jersey Redistricting Com'n*, 131 N.J. 594, 622 A.2d 843 (1992).

19:46-8. Organizational meeting; calling of meetings; quorum; vacancies

Section to expire on Jan. 1, 2001, pursuant to L.1991, c. 510, § 12, set out as a note under § 19:46-6.

The commission shall meet to organize as soon as may be practicable after the appointment of the independent member but not later than February 15, 1992. At the organizational meeting the members of the commission shall determine such organizational matters as they deem appropriate. Thereafter, a meeting of the commission may be called by the chairman or upon the request of seven members, and seven members of the commission shall constitute a quorum at any meeting thereof for the purpose of taking any action.

Vacancies in the membership of the commission occurring prior to the certification by the commission of Congressional districts or during any period in which the districts established by the commission may be or are under challenge in the courts of this State or the courts of the United States shall be filed within five days of their occurrence in the same manner as the original appointments were made.

L.1991, c. 510, § 3, eff. Jan. 15, 1992.

Historical and Statutory Notes

For effective date and expiration of L.1991, c. 510, see note set out under § 19:46-6.

19:46-9. Certification of congressional districts or congressional district plan; vote

Section to expire on Jan. 1, 2001, pursuant to L.1991, c. 510, § 12, set out as a note under § 19:46-6.

On or before March 20, 1992, or within three months after receipt by the Governor of the official statement by the Clerk of the House of Representatives regarding the number of Representatives to which the State is entitled, pursuant to section 2a of 2 U.S.C., whichever is later, the commission shall certify the establishment of the Congressional districts to the Secretary of State. The commission shall certify the establishment of districts pursuant to a majority vote of its members. Any vote by the commission upon a proposal to certify the establishment of a Congressional district plan shall be taken by roll call and shall be recorded, and the vote of any member in favor of any Congressional district plan shall nullify any vote which he shall previously have cast during the life of the commission in favor of a different Congressional district plan. Any Congressional district plan introduced by a member of the commission shall be considered for adoption by the commission and subject to a recorded vote to ascertain the level of support for that plan among the members. If the commission is unable to certify the establishment of districts by the time required due to the inability of a plan to achieve seven votes, the two district plans receiving the greatest number of votes, but not fewer than five votes, shall be submitted to the Supreme Court, which shall select and certify whichever of the two plans so submitted conforms most closely to the standards established in section 5 of this act.¹ The independent member of the commission may vote only when the vote of the other members of the commission in favor of a Congressional district plan results in a tie.

L.1991, c. 510, § 4, eff. Jan. 15, 1992.

¹ N.J.S.A. § 19:46-10.

Historical and Statutory Notes

For effective date and expiration of
L.1991, c. 510, see note set out under
§ 19:46-6.

19:46-10. Congressional district plan; standards; equality of population; ethnic or racial fragmentation prohibited; contiguity; continuity

Section to expire on Jan. 1, 2001, pursuant to L.1991, c. 510, § 12, set out as a note under § 19:46-6.

a. The plan certified by the New Jersey Redistricting Commission for the establishment of Congressional districts shall provide for equality of population among districts; for the preservation of minority voting status within each district; for the geographical contiguity of individual districts; and for reasonable protection for districts from decade to decade against disruptive alteration due to redistricting.

b. (1) In the plan, the population of each Congressional district shall be as nearly equal as practicable, and the difference in population between the most populous and least populous districts as small as practicable, as required by the Constitution of the United States and all applicable decisions of the Supreme Court of the United States.

(2) No Congressional district shall be established which fragments an ethnic or racial minority community which, if left intact, would constitute a majority or significant number of voters or potential voters within a single district with the ability to elect the candidate of their choice. For the purposes of this paragraph, a minority community means any group enjoying special protection under the civil rights provisions of the Constitution of the United States and the federal "Voting Rights Act of 1965," as amended and supplemented (42 U.S.C., § 1973 et seq.).

c. Congressional districts shall be drawn so that they are contiguous.

d. To the fullest extent reasonable and when not in conflict with the foregoing standards, Congressional districts shall be drawn to preserve continuity from decade to decade.

L.1991, c. 510, § 5, eff. Jan. 15, 1992.

Historical and Statutory Notes

For effective date and expiration of
L.1991, c. 510, see note set out under
§ 19:46-6.

United States Supreme Court

Elections,

Congressional redistricting plans, race-based districting, see *Miller v. Johnson*, 1995, 115 S.Ct. 2475, 515 U.S. 900, 132 L.Ed.2d 762, on remand 922 F.Supp. 1552, on remand 922 F.Supp. 1556.

Legislative redistricting plans, vote dilution, see *Johnson v. De Grandy*, U.S.Fl.1994, 114 S.Ct. 2647, 512 U.S. 997, 129 L.Ed.2d 775.

Equal protection,

Redistricting, racial gerrymandering, narrowly tailored to serve compelling state interest, see *Shaw v. Hunt*, 1996, 116 S.Ct. 1894, 517 U.S. 899, 135 L.Ed.2d 207.

Redistricting, racial gerrymandering, noncompact and bizarrely shaped majority-minority districts, compelling state interest, voting Rights Act, see *Bush v. Vera*, U.S.Tex. 1996, 116 S.Ct. 1941, 517 U.S. 952, 135 L.Ed.2d 248.

Notes of Decisions

Delegation of powers 2

Elections 3

Modification of boundaries 4

Standards for district boundaries 5

Validity 1

1. Validity

In action challenging state's congressional reapportionment plan, evidence

sustained district court's finding that state failed to meet its burden of proving that the population deviations in the reapportionment plan were necessary to achieve a consistent, nondiscriminatory legislative policy, because the primary justification asserted for the deviations was that of preserving the voting strength of racial minority groups, but state failed to show that the specific population disparities were necessary to preserve minority voting strength. *Karcher v. Daggett*, U.S.N.J.1983, 103 S.Ct. 2653, 462 U.S. 725, 77 L.Ed.2d 133, on remand 580 F.Supp. 1259.

Stay was warranted pending review on appeal of judgment of three-judge district court declaring unconstitutional former sections 19:46-4 and 19:46-5 reapportioning congressional districts, as there was a reasonable probability that jurisdiction of appeal would be noted and there was a fair prospect of reversal, appellants would suffer irreparable harm if stay was not granted, and balance of equities favored giving preference to legislative apportionment plan. *Karcher v. Daggett*, U.S.N.J.1982, 102 S.Ct. 1298, 455 U.S. 1303, 71 L.Ed.2d 635, motion to vacate stay denied 102 S.Ct. 1745, 456 U.S. 901, 72 L.Ed.2d 157.

New Jersey congressional reapportionment statute, under which there was overall absolute range of deviation of 3.647 people and overall relative range of deviation of 0.6984% was unconstitutional in view of fact that such population deviation was not unavoidable, contrary to contention that the "as nearly as practicable" standard was satisfied when the population variation was less than the statistical imprecision of the census. *Daggett v. Kimmelman*, D.C.N.J.1982, 535 F.Supp. 978, stay granted 102 S.Ct. 1298, 455 U.S. 1303, 71 L.Ed.2d 635, motion to vacate stay denied 102 S.Ct. 1745, 456 U.S. 901, 72 L.Ed.2d 157, probable jurisdiction noted 102 S.Ct. 2955, 457 U.S. 1131, 73 L.Ed.2d 1347, affirmed 103 S.Ct. 2653, 462 U.S. 725, 77 L.Ed.2d 133, on remand 580 F.Supp. 1259.

In consolidated actions challenging constitutionality of this section and § 19:46-4 under which there was overall absolute range of deviation of 3,647 people and overall relative range of deviation of .6984%, issue whether state's interest in avoiding dilution of minority voting

strength in certain district was of sufficient interest to justify population deviations within this section need not be resolved, in view of failure to demonstrate any causal relationship between goal of preserving minority voting strength in one district and population variances in other districts and that it was difficult to reconcile such goal with statute's treatment of certain city. *Daggett v. Kimmelman*, D.C.N.J.1982, 535 F.Supp. 978, stay granted 102 S.Ct. 1298, 455 U.S. 1303, 71 L.Ed.2d 635, motion to vacate stay denied 102 S.Ct. 1745, 456 U.S. 901, 72 L.Ed.2d 157, probable jurisdiction noted 102 S.Ct. 2955, 457 U.S. 1131, 73 L.Ed.2d 1347, affirmed 103 S.Ct. 2653, 462 U.S. 725, 77 L.Ed.2d 133, on remand 580 F.Supp. 1259.

Where under § 19:46-3 (repealed; now this section) creating districts for election of United States Representatives percentage of relative deviations varied from high of 31.67% to low of 19.87%, with 12.41% mean relative deviation, congressional districting plan was patently unconstitutional. *David v. Cahill*, D.C.N.J. 1972, 342 F.Supp. 463.

Requirement of the state constitution that no bill or joint resolution shall be read a third time in either house until after intervention of one full calendar day following the second reading was satisfied with respect to congressional redistricting enactment even though, six days after the bill had been given second reading in the general assembly, bill as passed by the senate was substituted, and though senate bill had different number, sponsors, and color-coded backer, where the substantive contents of the bill as introduced in both houses of the legislature were absolutely identical. Application of Forsythe, 91 N.J. 141, 450 A.2d 499 (1982).

Contention that Legislature in § 19:46-3 (repealed; now this section) to provide for a new line between two congressional districts was motivated by partisan political consideration was beyond judicial condemnation, since Constitution was not offended merely because a partisan advantage was viewed in drawing line. *Koziol v. Burkhardt*, 51 N.J. 412, 241 A.2d 451 (1968).

Section 19:46-3 (repealed; now this section) insofar as it does not adhere to county lines in six of the 21 counties was unconstitutional on ground that the devi-

ations from population ideal are beyond constitutional tolerance in that mathematical ideal could be more nearly approached by redevelopment of whole municipalities lying at borders of the districts, but in view of importance of litigation, cause would be remanded to permit parties to pursue it under guidelines of Supreme Court's opinion. *Jones v. Falcey*, 48 N.J. 25, 222 A.2d 101 (1966).

Section 19:46-3 (repealed; now this section) which adheres to county lines as to 15 of the 21 counties, under which act the largest of deviations from population ideal run minus 7.3 and plus 7.1 and occur respectively in second district with population of 374,996 and fourth district with population of 432,974, mathematical ideal being 440,452, was not unconstitutional since such deviations are permissible in view of objective of adhering to county line. *Jones v. Falcey*, 48 N.J. 25, 222 A.2d 101 (1966).

2. Delegation of powers

State could use any constitutionally sanctioned method of creating law, including, proper delegation of lawmaking power to temporary commission created for special purpose of congressional reapportionment, and therefore, reapportionment plan was developed "by law." *Brady v. New Jersey Redistricting Com'n*, 131 N.J. 594, 622 A.2d 843 (1992).

3. Elections

Proposed congressional redistricting plan in New Jersey, which had percentage deviations ranging from high of .081% to low of .069, with .029 mean percentage deviation, which left all municipalities except one in a single congressional district, which reduced congressional seats in three counties in recognition of population growth taking place to west and south of those counties and under which every incumbent congressman was a resident of one of the proposed new districts, would be ordered into effect for upcoming primary and general election in place of patently unconstitutional existing districting plan. *David v. Cahill*, D.C.N.J. 1972, 342 F.Supp. 463.

The November election would be permitted to be held under § 19:46-3 (repealed; now this section) notwithstanding Supreme Court's opinion that act was invalid as related to six of the 21 counties

because of deviations from population ideal, and results of that election would stand notwithstanding ultimate fate of the act on remand, but if act was ultimately found to be invalid, no further election could be held under it. *Jones v. Falcey*, 48 N.J. 25, 222 A.2d 101 (1966).

4. Modification of boundaries

Notwithstanding enactment of § 19:46-3 (repealed; now this section) in 1966 respecting congressional redistricting in State, Legislature was not precluded from subsequently amending such comprehensive statute in 1968 to provide a new line separating two of the congressional districts. *Koziol v. Burkhardt*, 51 N.J. 412, 241 A.2d 451 (1968).

Where constitutional objection presented by act providing a new line between two congressional districts was obviated by adopting plan which reduced disparity between districts to 13 rather than 851 as provided in amendatory act, § 19:46-3 (repealed; now this section) required administrative action in three days and alteration would not depart from basic legislative plan, court directed necessary changes subject to power of Legislature to adopt another constitutional plan. *Koziol v. Burkhardt*, 51 N.J. 412, 241 A.2d 451 (1968).

5. Standards for district boundaries

Legislature in redistricting congressional districts was required to adopt plan which attained least disparity while preserving legislative thesis of respecting municipal lines. *Koziol v. Burkhardt*, 51 N.J. 412, 241 A.2d 451 (1968).

The Constitution, as construed by the Supreme Court of the United States, does not contemplate that there is a range of deviation for apportionment of congressional districts within which a state may maneuver, with or without reason; the command is to achieve equality, and a limited deviation is permissible only if there exists an acceptable reason for the deviation, so that a limited deviation may be acceptable if it is needed to stay with lines of existing political subdivisions and thus to avoid the spectre of partisan gerrymandering, but the deviation may not exceed what the purpose inevitably requires. *Jones v. Falcey*, 48 N.J. 25, 222 A.2d 101 (1966).

The constitutional command is to achieve population equality in apportion-

Note 5

ment of congressional districts "as nearly as practicable," and if equality would be more nearly achieved by shifting whole municipalities to a contiguous district, the draftsman has not achieved equality "as nearly as practicable," unless some other constitutionally tenable reason can

be shown to justify the disparity; if lines of political subdivisions are ignored, there is no apparent reason for not achieving mathematical equality, subject to inevitable de minimis variations. *Jones v. Falcey*, 48 N.J. 25, 222 A.2d 101 (1966).

19:46-11. Meetings of commission; open public meetings act inapplicable

Section to expire on Jan. 1, 2001, pursuant to L.1991, c. 510, § 12, set out as a note under § 19:46-6.

Meetings of the New Jersey Redistricting Commission shall be held at convenient times and locations. The commission shall hold at least three public hearings in different parts of the State. The commission shall, subject to the constraints of time and convenience, review written plans for the establishment of Congressional districts submitted by members of the general public. Notwithstanding any statute, rule or regulation to the contrary, the commission shall not be subject to the "Open Public Meetings Act," P.L.1975, c. 231 (C. 10:4-6 et seq.).

L.1991, c. 510, § 6, eff. Jan. 15, 1992.

Historical and Statutory Notes

For effective date and expiration of L.1991, c. 510, see note set out under § 19:46-6.

19:46-12. Use of established congressional districts

Section to expire on Jan. 1, 2001, pursuant to L.1991, c. 510, § 12, set out as a note under § 19:46-6.

The establishment of Congressional districts shall be used thereafter for the election of members of the House of Representatives and shall remain unaltered through the next year ending in zero in which a federal census for New Jersey is taken, unless such districts are ruled invalid by the courts of this State or the United States.

L.1991, c. 510, § 7, eff. Jan. 15, 1992.

Historical and Statutory Notes

For effective date and expiration of L.1991, c. 510, see note set out under § 19:46-6.

19:46-13. Jurisdiction of courts over actions of commission; precedence; expedited judgment

Section to expire on Jan. 1, 2001, pursuant to L.1991, c. 510, § 12, set out as a note under § 19:46-6.

Notwithstanding any statute, rule or regulation to the contrary and except as otherwise required by the Constitution of the United States or by any federal law, no court of this State shall have jurisdiction over any judicial proceeding challenging the actions of the New Jersey Redistricting Commission, including its establishment of Congressional districts under this act, except that the Supreme Court of this State shall have original and exclusive jurisdiction to consider any cause brought upon the petition of a legally qualified voter of the State and to grant relief appropriate to the cause, including the issuance of an order to the commission to establish new districts. The Court shall give any petition filed as provided herein precedence over all other matters. It shall render judgment within 30 days of the date on which the petition is filed.

L.1991, c. 510, § 8, eff. Jan. 15, 1992.

Historical and Statutory Notes

For effective date and expiration of L.1991, c. 510, see note set out under § 19:46-6.

Notes of Decisions

Original jurisdiction of supreme court 2
Review 3
Validity 1

1. Validity

Redistricting law was unconstitutional to extent it purported to confer upon the Supreme Court original and exclusive jurisdiction over any proceeding challenging decision of Redistricting Commission. *Brady v. New Jersey Redistricting Com'n*, 131 N.J. 160, 619 A.2d 1005 (1992).

2. Original jurisdiction of supreme court

Unconstitutionality of statutory section granting Supreme Court original jurisdiction to consider actions challenging Redistricting Commission's actions in formulating congressional reapportionment plan did not render entire statute creating and governing such Commission unconstitutional since judicial review section was clearly severable; manner of judicial review was attractive addition to

bill, but not critical feature since statute concerned itself mainly with creating Redistricting Commission and establishing guidelines to assist that Commission in its task. *Brady v. New Jersey Redistricting Com'n*, 131 N.J. 594, 622 A.2d 843 (1992).

3. Review

Redistricting Commission which was to formulate congressional reapportionment plan constituted specialized form of administrative agency and as such, Commission's actions, like other final administrative decisions, were subject to appeal to Appellate Division; therefore, taxpayer's petition challenging plan, which was filed pursuant to statute which improperly granted original jurisdiction to Supreme Court to decide challenges to actions of redistricting commission, would be treated as notice of appeal and Supreme Court on its own motion certified appeal. *Brady v. New Jersey Redistricting Com'n*, 131 N.J. 594, 622 A.2d 843 (1992).

19:46-14. Staff and employees

Section to expire on Jan. 1, 2001, pursuant to L.1991, c. 510, § 12, set out as a note under § 19:46-6.

The commission shall be entitled to call to its assistance and avail itself of the services of such staff or employees of any State, county or municipal department, board, bureau, commission or agency as it may require and as may be available for its purposes, and to employ such stenographic, clerical and professional assistance as it may deem necessary in order to perform its duties, within the limits of funds appropriated or otherwise made available to it for its purposes.

L.1991, c. 510, § 9, eff. Jan. 15, 1992.

Historical and Statutory Notes

For effective date and expiration of
L.1991, c. 510, see note set out under
§ 19:46-6.

SUBTITLE 15

VOTING MACHINES; PROCEDURE

Chapter

- 47. Definitions and Construction.
- 48. Voting Machines.
- 49. Ballots.
- 50. Instruction Concerning Voting Machines.
- 51. Number of Registered Voters in a District [Repealed].
- 52. Procedure at Polling Places.
- 53. Penalties.
- 53A. Electronic Voting Systems.
- 53B. Emergency Ballots.

CHAPTER 47

DEFINITIONS AND CONSTRUCTION

Section

- 19:47-1. Words and terms defined.
- 19:47-2. Construction.

Library References

Elections ⇌ 222.
WESTLAW Topic No. 144.
C.J.S. Elections § 203.

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19:47-1. Words and terms defined

As used in this subtitle:

"Ballot", except when reference is made to irregular ballots, means that portion of the cardboard or paper within the ballot frames containing the name of the candidate and the designation of the party by which he was nominated, or a statement of a proposed constitutional amendment, or other question or proposition with the word "yes" for voting for any question or proposition, and the word "no" for voting against any question.

"Question" includes any constitutional amendment, proposition or other question submitted to the voters at any election.

"Official ballot" means the printed strips of cardboard or paper containing the names of the candidates nominated and a statement of the questions submitted.

"Irregular ballot" means a vote cast, by or on a special device, for a person whose name does not appear on the ballots.

"Voting machine custodian" means the person who shall have charge of preparing and arranging the voting machine for elections.

"Protective counter" means a separate counter built into the voting machine which cannot be reset, which records the total number of movements of the operating lever.

The list of candidates used or to be used on the front of the voting machine for an election district in which the voting machine is used pursuant to law shall be deemed official ballots under this subtitle.

Historical and Statutory Notes

Source: L.1935, c. 302, § 25, p. 961.

Library References

Words and Phrases (Perm.Ed.)

19:47-2. Construction

All provisions of law relating to elections shall apply to all elections where voting machines are used so far as the same may be applicable thereto and so far as such provisions are not inconsistent with the provisions of this subtitle.

Historical and Statutory Notes

Source: L.1935, c. 302, § 26, p. 962.

CHAPTER 48

VOTING MACHINES

Section

- 19:48-1. Requirements for voting machines.
- 19:48-2. Examination of voting machines by secretary of state.
- 19:48-3. Adoption of voting machines; purchase or rental; furnishing voting machines for election following enactment; competitive bidding; method of payment.
 - 19:48-3.1. State House Commission, convening of and action by.
 - 19:48-3.2. Ballots, preparation and use.
 - 19:48-3.3. State House Commission to provide voting machines in first and second class counties.
 - 19:48-3.4. Appropriation for purchase of voting machines.
 - 19:48-3.5. Purchase of voting machines; competitive bids; notice; procedure.
 - 19:48-3.6. Purchase of voting machines as available.
 - 19:48-3.7. Delivery of voting machines purchased.
 - 19:48-3.8. Certification to counties of voting machines purchased; appropriations in annual budget.
 - 19:48-3.9. Payments by counties out of first tax moneys.
 - 19:48-3.10. Certification to Commissioner of Local Government of moneys to be appropriated; withholding approval of county budget.
 - 19:48-3.11. Use of voting machines when insufficient number delivered to counties.
 - 19:48-3.12. Convening of State House Commission; majority vote.
 - 19:48-3.13. Voting machine or emergency ballots only to be prepared and used.
 - 19:48-3.14. Enforcement of act by Attorney General.
 - 19:48-3.15. Definitions.
 - 19:48-3.16. Purpose of act.
 - 19:48-3.17. Renting of voting machines.
 - 19:48-3.18. Agreements for rental of voting machines; terms and conditions.
 - 19:48-3.19. Certification to municipal clerk of voting machines rented.
 - 19:48-3.20. Municipal clerk's duties on receipt of certification.
 - 19:48-3.21. Expenditures for voting machines rented; reimbursement of county by municipality.
- 19:48-4. Custody and care of machines.
- 19:48-5. Payment for machines.
- 19:48-6. Duties of officials concerning machines.
- 19:48-7. Voting machine out of order.
- 19:48-8. Rental of voting machines to associations, clubs, etc.; terms.

Library References

- Elections §222.
- WESTLAW Topic No. 144.
- C.J.S. Elections § 203.

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19:48-1. Requirements for voting machines

Any thoroughly tested and reliable voting machines may be adopted, rented, purchased or used, which shall be so constructed as to fulfill the following requirements:

- (a) It shall secure to the voter secrecy in the act of voting;
- (b) It shall provide facilities for such number of office columns, not less than 40 and not exceeding 60, as the purchasing authorities may specify and of as many political parties or organizations, not exceeding nine, as may make nominations, and for or against as many questions, not exceeding 30, as submitted;
- (c) It shall, except at primary elections, permit the voter to vote for all the candidates of one party or in part for the candidates of one party or one or more parties;
- (d) It shall permit the voter to vote for as many persons for an office as he is lawfully entitled to vote for, but no more;
- (e) It shall prevent the voter from voting for the same person more than once for the same office;
- (f) It shall permit the voter to vote for or against any question he may have the right to vote on, but no other;
- (g) It shall for use in primary elections be so equipped that the election officials can lock out all rows except those of the voter's party by a single adjustment on the outside of the machine;
- (h) It shall correctly register or record and accurately count all votes cast for any and all persons, and for or against any and all questions;

(i) It shall be provided with a "protective counter" or "protective device" whereby any operation of the machine before or after the election will be detected;

(j) It shall be so equipped with such locks as shall prevent the operation of the machine after the polls are closed;

(k) It shall be provided with a counter which shall show at all times during an election how many persons have voted;

(l) It shall be provided with a mechanical model, illustrating the manner of voting on the machine, suitable for the instruction of voters;

(m) It must permit a voter to vote for any person for any office, except delegates and alternates to national party conventions, whether or not nominated as a candidate by any party or organization by providing space for writing in such names or name;

(n) It shall be equipped with a permanently affixed box or container of sufficient strength, size and security to hold all emergency ballots and pre-punched single-hole envelopes and with a clipboard and a table-top privacy screen.

All voting machines used in any election shall be provided with a screen, hood or curtain, which shall be so made and adjusted as to conceal the voter and his action while voting.

It shall also be provided with one device for each party for voting for all the presidential electors of that party by one operation, and a ballot therefor containing only the words "presidential electors for," preceded by the name of that party and followed by the names of the candidates thereof for the offices of President and Vice-President and a registering device therefor which shall register the vote cast for such electors when thus voted collectively.

Amended by L.1941, c. 166, p. 528, § 4; L.1984, c. 39, § 1, eff. May 4, 1984; L.1992, c. 3, § 3.

Introductory Statement

Senate, No. 1517—L.1984, c. 39

The law presently requires that voting machines provide space for write-in votes for any office; however, it is not possible to provide enough space for write-in votes for the offices of delegates and alternates to national party conventions, therefore this bill exempts delegates and alternates to national party conventions from the list of offices for which write-in space must be provided on voting machines. Such persons are chosen under elaborate procedures by the political parties and write-in candidates would be contrary to the procedure established by political parties for their selection.

Historical and Statutory Notes

L.1992, c. 3, § 30, approved April 24, 1992, provides:

"This act [L.1992, c. 3] shall take effect immediately [April 24, 1992] and shall be applicable to the first primary for the

general election or the first general election which occurs after the 60th day following the enactment of this act."

Source: L.1935, c. 302, § 1, p. 944.

Library References

Elections ¶222.

WESTLAW Topic No. 144.

C.J.S. Elections § 203.

Texts and Treatises

26 Am Jur 2d, Elections §§232, 253.

Notes of Decisions

Party vote 1 Write-in candidates 2

1. Party vote

Party, even though not a political party as defined in Election Law, was not intended to be denied opportunity to have its slate on one line on general election voting machine ballot. *Richardson v. Caputo*, 46 N.J. 3, 214 A.2d 385 (1965).

2. Write-in candidates

"Write-in" votes which do not bear a check mark or office or party designation

are not invalidated when voting machine is used in primary election. Application of *Klayman*, 97 N.J.Super. 295, 235 A.2d 45 (L.1967).

Irregular ballot in voting machine primary election marked "Fran Petrucelli" would be counted for Frances Petrucelli who conducted a write-in campaign for the office. Application of *Klayman*, 97 N.J.Super. 295, 235 A.2d 45 (L.1967).

19:48-2. Examination of voting machines by secretary of state

Any person or corporation owning or being interested in any voting machine may apply to the Secretary of State to examine such machine. Before the examination the applicant shall pay to the Secretary of State an examination fee of four hundred fifty dollars (\$450.00). The Secretary of State within a period of thirty days shall examine the machine and shall make and file in the office of the Secretary of State his report of the examination, which report shall state whether in his opinion the kind of machine so examined can be safely used by the voters at elections under the conditions prescribed in this subtitle. If the report states the machine can be so used, it shall be deemed approved, and machines of its kind may be adopted for use at elections as herein provided.

Before making such report the Secretary of State shall require the voting machine to be examined by three examiners to be appointed for such purpose by him, one of whom shall be an expert in patent

law and the other two mechanical experts, and shall require of them a written report on such machine, which the Secretary of State shall attach to his own report on the machine. Each examiner shall receive one hundred fifty dollars (\$150.00) for his compensation and expenses in making an examination and report as to each voting machine examined by him from and out of the examination fee of four hundred fifty dollars (\$450.00). Neither the Secretary of State nor any examiner shall have any pecuniary interest in any voting machine. When the machine has been so approved, any improvement or change that does not impair its accuracy, efficiency, or capacity, shall not render necessary a re-examination or reapproval thereof. Any form of voting machine not so approved cannot be used at any election.

The certificate of approval, or a certified copy thereof, shall be conclusive evidence that the kind of machine so examined complies with the provisions of this subtitle, except that the action of the Secretary of State in approving such machine may be reviewed by the Superior Court in a proceeding in lieu of prerogative writ. Amended by L.1953, c. 19, p. 355, § 58.

Historical and Statutory Notes

Source: L.1935, c. 302, § 2, p. 946.

19:48-3. Adoption of voting machines; purchase or rental; furnishing voting machines for election following enactment; competitive bidding; method of payment

In all counties other than counties of the first class the board of chosen freeholders or the governing body of any municipality by a majority vote of their respective bodies may adopt for use at all elections any kind of voting machine that meets the requirements of this subtitle, or any voting machines which meet the requirements of this subtitle may also be adopted in any county or municipality at any general, local or special election, by popular referendum, by a majority of the qualified votes cast. Such referendum shall be placed on the ballot on petition of ten per centum (10%) of the qualified voters of such county or municipality who cast their votes at the last preceding general election in such county or municipality and shall be adopted by a majority vote of the qualified electors voting thereon. Such referendum shall read as follows: "Shall voting machines be adopted and used in all elections in the (county or municipality) of?" Upon the adoption thereof the local governing body of such political unit shall proceed to acquire within eighteen months, by rental or purchase, a complete equipment of voting machines. The governing body of the county or municipality shall

provide that all election districts of any one municipality shall be equipped with voting machines on the same day. In all counties of the first class on and after September first, one thousand nine hundred and forty, voting machines of the type to meet the requirements of this subtitle shall be adopted and furnished by rental or purchase, by the board of chosen freeholders and used at all elections, in all election districts, in said counties; provided, however, that the purchase price of voting machines shall be paid at a rate not to exceed three hundred thousand dollars (\$300,000.00) in any one year. In the event the board of chosen freeholders of any county of the first class shall not have furnished and provided by rental or purchase at least forty (40) days before the election immediately following the enactment of this act, voting machines of the description and in the quantity required for use as aforesaid then the State House Commission shall forthwith furnish, by purchase or rental, a sufficient number of voting machines for use at all elections in all election districts in said county; in the event that the State House Commission finds it impracticable to obtain the number of machines necessary for use in all election districts in the said county at the next election, the State House Commission shall furnish as many machines for use in the said county at the next election as it finds practicable, and in that event the superintendent of elections of such county shall direct the installation and use of voting machines, so furnished, in such municipalities and in such wards thereof as the superintendent of elections shall designate, giving preference to municipalities in the descending order of population measured by the last published Federal or State census, and, in any municipality, giving preference to the several wards thereof according to the same standard. Any voting machines purchased by the State House Commission under the provisions of this section shall be purchased through competitive bidding upon such notice and according to such procedure as the State House Commission may prescribe. The cost of the rental or purchase of voting machines by the State House Commission under the provisions of this section shall be paid as follows: The State Treasurer shall withhold ten per centum (10%) of all subventions, excepting school and relief funds, due said county in any fiscal year until sufficient funds, together with interest at the rate of three per centum (3%) per annum, on the unpaid balance has been withheld, to cover the cost of the purchase or rental of the voting machines. The State Treasurer shall disburse said funds so retained to such persons or corporations, public or private, as shall be entitled to the same.

Amended by L.1940, c. 152, p. 329, § 1; L.1940, c. 197, p. 845, § 1.

Historical and Statutory Notes

Source: L.1935, c. 302, § 3, p. 947.

The amendatory Act, filed June 25, 1940, L.1940, c. 152, p. 329, consisted of and was identical with the first part of the amendatory Act filed September 24,

1940, L.1940, c. 197, p. 845, down to the last three sentences commencing "In the event the board * * *." The remainder of the section, beginning with the quoted words, was added by L.1940, c. 197, p. 845.

Notes of Decisions

Purchase of voting machines 3**Purpose 2****Validity 1****1. Validity**

This section requiring voting machines in counties of the first class is not a "local law" or "special law" regulating internal affairs of towns and counties in violation of Const. 1844 Art. 4, § 7, par. 11 (see, now, Const. Art. 4, § 7, par. 9). *Hudson County v. State House Commission*, 130 N.J.L. 90, 31 A.2d 780 (1943).

2. Purpose

The purpose of this section is to provide for honest elections. *Hudson County v. State House Commission*, 130 N.J.L. 90, 31 A.2d 780 (1943).

3. Purchase of voting machines

Moneys distributed to counties by Legislature under P.L.1942, p. 257, for construction and repair of roads could not be used by Hudson county for the purchase of voting machines. *Hudson County v. State House Commission*, 130 N.J.L. 90, 31 A.2d 780 (1943).

Sections 30:4-78, 30:9-45 et seq. (repealed 1977), giving subsidies to Hudson County for support of patients in county insane hospital and tuberculosis hospitals, and providing that no money should be drawn from treasury except for specified purposes, are not "in pari materia" with this section, requiring voting machines in counties of the first class, and hence subsidies given by those appropriation statutes cannot be diverted for pur-

chase of voting machines. *Hudson County v. State House Commission*, 130 N.J.L. 90, 31 A.2d 780 (1943).

Evidence did not establish that action of board of chosen freeholders in resolving to purchase particular type of voting machines was not taken in good faith, upon reasonable investigation, and as result of considered judgment, and hence certiorari to review such resolution was denied. *Nunan v. Board of Chosen Freeholders of Middlesex County*, 126 N.J.L. 433, 20 A.2d 63 (1941).

Section 40:25-2 (repealed; see, now, §§ 40A:11-4, 40A:11-7) requiring advertisement, competitive bidding, and award to the lowest responsible bidder in case of county "contract for the doing of any work or the furnishing of any materials, supplies or labor," did not apply to the purchase by county of voting machines, since the contract was not a "contract for the doing of any work or the furnishing of any materials, supplies or labor." *Automatic Voting Mach. Co. v. Board of Chosen Freeholders of Bergen County*, 120 N.J.L. 264, 199 A. 375 (1938).

Application for writ of certiorari to review resolution of board of chosen freeholders relating to procurement of voting machines was required to be denied, where court was unable to discern such substantial infirmity in proceedings attacked as to call for allowance of writ after consideration of statute involved, affidavits, and briefs. *Schachat v. Board of Chosen Freeholders of Essex County*, 15 N.J. Misc. 216, 189 A. 624 (1937).

19:48-3.1. State House Commission, convening of and action by

For the purpose of this act,¹ a vote by the majority of the members of the State House Commission shall constitute valid action by said

commission, and the said State House Commission shall be convened by any member thereof.

L.1940, c. 197, p. 847, § 2.

¹ N.J.S.A. §§ 19:48-3 to 19:48-3.2.

19:48-3.2. Ballots, preparation and use

No ballots shall be prepared or used at any election in any election district designated by the superintendent of elections under the provisions of this act ¹ other than such ballots as are required for use in voting machines and emergency ballots for use if a voting machine fails to operate, as provided in this amendatory and supplementary act, P.L.1992, c. 3 (C. 19:53B-1 et al.).

L.1940, c. 197, p. 847, § 3. Amended by L.1992, c. 3, § 4.

¹ N.J.S.A. §§ 19:48-3 to 19:48-3.2.

Historical and Statutory Notes

L.1992, c. 3, § 30, approved April 24, 1992, provides:

"This act [L.1992, c. 3] shall take effect immediately [April 24, 1992] and shall be

applicable to the first primary for the general election or the first general election which occurs after the 60th day following the enactment of this act."

Library References

Texts and Treatises

26 Am Jur 2d, Elections §§230 to 233.

19:48-3.3. State House Commission to provide voting machines in first and second class counties

In each county of the first class and each county of the second class in which voting machines of the type to meet the requirements of subtitle fifteen of Title 19 of the Revised Statutes ¹ have not been furnished by the board of chosen freeholders for use at all elections in all election districts in said county, such voting machines shall be provided by the State House Commission for use in all election districts of each said county in the manner provided by this act.²

L.1944, c. 7, p. 20, § 1.

¹ N.J.S.A. § 19:47-1 et seq.

² N.J.S.A. §§ 19:48-3.3 to 19:48-3.14.

Historical and Statutory Notes

Title of Act:

An Act concerning elections, providing for the use of voting machines in first and second class counties, making an appro-

priation to the State House Commission, and supplementing chapter forty-eight of Title 19 of the Revised Statutes. L.1944, c. 7, p. 20.

Notes of Decisions

Validity 1

1. Validity

Under the rule that regulation of elections is a subject of legislative action, Legislature could properly provide for use of voting machines in the more popu-

lous first and second class counties for purpose of obtaining an earlier tally of votes cast. Application of Hudson County, 131 N.J.L. 554, 37 A.2d 650 (1944).

Section 19:14-3.3 et seq. is not unconstitutional as creating an unauthorized debt. Application of Hudson County, 131 N.J.L. 554, 37 A.2d 650 (1944).

19:48-3.4. Appropriation for purchase of voting machines

There is hereby appropriated to the State House Commission the sum of one million five hundred thousand dollars (\$1,500,000.00) for the purpose of purchasing the voting machines required by this act.¹

L.1944, c. 7, p. 20, § 2.

¹ N.J.S.A. §§ 19:48-3.3 to 19:48-3.14.

19:48-3.5. Purchase of voting machines; competitive bids; notice; procedure

The State House Commission shall purchase such voting machines of the type described in subtitle fifteen of Title 19 of the Revised Statutes,¹ by competitive bidding and upon such notice and according to such procedure as the State House Commission shall prescribe.

L.1944, c. 7, p. 20, § 3.

¹ N.J.S.A. § 19:47-1 et seq.

19:48-3.6. Purchase of voting machines as available

If the State House Commission is unable to purchase sufficient voting machines to meet the requirements of this act,¹ it shall purchase such number as may be available and thereafter, from time to time, make further purchases of such voting machines as they become available, until sufficient voting machines have been purchased to meet the requirements of this act.

L.1944, c. 7, p. 20, § 4.

¹ N.J.S.A. §§ 19:48-3.3 to 19:48-3.14.

19:48-3.7. Delivery of voting machines purchased

All voting machines purchased by the State House Commission pursuant to this act¹ shall be delivered to the superintendent of elections in counties having a superintendent of elections and to the county board of elections in each county of the second class. If the State House Commission is unable at its first purchase to purchase sufficient voting machines to meet the requirements of this act, it shall determine in its discretion the county or counties to which the

voting machines purchased are to be delivered and the machines shall be delivered as required by such determination, and as further purchases are made the same procedure shall be followed.

L.1944, c. 7, p. 21, § 5. Amended by L.1947, c. 168, p. 767, § 26.

¹ N.J.S.A. §§ 19:48-3.3 to 19:48-3.14.

19:48-3.8. Certification to counties of voting machines purchased; appropriations in annual budget

As soon as any voting machines are purchased by the State House Commission and the determination is made as to the number to be delivered to any county, the State House Commission shall certify to the board of chosen freeholders of said county the number of voting machines purchased for said county and the amount of the purchase price paid therefor. In the annual budget of said county for the year following the date of such certification, and in each annual budget thereafter until the full amount so certified is paid, the board of chosen freeholders of said county shall appropriate an amount sufficient to pay one-fifth of the total amount or amounts so certified by the State House Commission, together with three per centum (3%) interest from the date of certification; *provided, however*, that, in any year, the board of chosen freeholders may appropriate and pay any amount greater than herein required.

L.1944, c. 7, p. 21, § 6. Amended by L.1945, c. 122, p. 477, § 1.

Notes of Decisions

Validity 1

1. Validity

Provision of § 19:48-3.8 that boards of freeholders must appropriate sufficient

money after installation to pay cost of machines, is not invalid as imposing a tax or special levy, but is merely a direction as to how payment is to be made over a period of years. Application of Hudson County, 131 N.J.L. 554, 37 A.2d 650 (1944).

19:48-3.9. Payments by counties out of first tax moneys

In each county in which it is required by this act that an appropriation for the purposes of this act be included in the annual budget of any county, the board of chosen freeholders of said county shall direct the county treasurer of said county to pay, and the county treasurer, not later than the first day of March in such ¹ year, shall pay to the State Treasurer the amount of such appropriation out of the first moneys received from the various municipalities of the county for county taxes and before making any other payment out of said moneys.

L.1944, c. 7, p. 21, § 7.

¹ So in enrolled bill. Probably should read "each".

Library References

Counties ⇨134.

WESTLAW Topic No. 104.

C.J.S. Counties § 174.

19:48-3.10. Certification to Commissioner of Local Government of moneys to be appropriated; withholding approval of county budget

Whenever the State House Commission makes its certification to any county of money to be appropriated by said county pursuant to the provisions of this act, it shall make a like certification to the Commissioner of Local Government and it shall be the duty of the Commissioner of Local Government to withhold approval of any county budget which does not contain any appropriation required by this act until such time as such appropriation is included.

L.1944, c. 7, p. 21, § 8.

19:48-3.11. Use of voting machines when insufficient number delivered to counties

When voting machines are delivered to any county pursuant to the provisions of this act and they are insufficient to provide voting machines for use in all election districts of said county, such voting machines shall be installed and used in such municipalities of said county and in such wards thereof as, in counties having a superintendent of elections, the superintendent of elections shall designate and as, in counties of the second class, not having a superintendent of elections the commissioner of registration shall designate, giving preference to municipalities in the descending order of population measured by the last Federal census and, in any municipality, giving preference to the several wards thereof according to the same standard.

L.1944, c. 7, p. 22, § 9. Amended by L.1947, c. 168, p. 767, § 27.

Library References

Elections ⇨222.

WESTLAW Topic No. 144.

C.J.S. Elections § 203.

19:48-3.12. Convening of State House Commission; majority vote

For the purpose of this act, the State House Commission may be convened by any member thereof on ten days' notice, in writing, given to the other members thereof, and a vote of the majority of the members thereof shall constitute valid action by said commission.

L.1944, c. 7, p. 22, § 10.

Library References

States ⇨34.

WESTLAW Topic No. 360.

C.J.S. States §§ 55 to 58.

19:48-3.13. Voting machine or emergency ballots only to be prepared and used

No ballots other than ballots required for use in voting machines and emergency ballots for use if a voting machine fails to operate shall be prepared or used at any election in any election district in any such county for which voting machines are available, and which has been designated by the superintendent of elections of the county if any there be or by the commissioner of registration of the county if a county of the second class, having any superintendent of elections, under the provisions of this act, as an election district in which voting machines shall be used.

L.1944, c. 7, p. 22, § 11. Amended by L.1947, c. 168, p. 768, § 28; L.1992, c. 3, § 5.

Historical and Statutory Notes

L.1992, c. 3, § 30, approved April 24, 1992, provides:

"This act [L.1992, c. 3] shall take effect immediately [April 24, 1992] and shall be

applicable to the first primary for the general election or the first general election which occurs after the 60th day following the enactment of this act."

Library References

Elections ⇨222.

WESTLAW Topic No. 144.

C.J.S. Elections § 203.

Notes of Decisions

Exceptions 1

1. Exceptions

Use of emergency ballots in township council election was permissible after

voting machine broke down and was unavailable for use for about three and one-half hours. In re 1984 General Election for the Office of Council of the Tp. of Maple Shade Burlington County, 203 N.J.Super. 563, 497 A.2d 577 (L.1985).

19:48-3.14. Enforcement of act by Attorney General

If any provision of this act is not complied with, the Attorney-General, at the request of the State House Commission, shall forthwith proceed to enforce compliance with the same.

L.1944, c. 7, p. 22, § 12.

19:48-3.15. Definitions

As used in this act¹—

"Municipal election" means an election to be held in and for a single municipality only, at regular intervals;

"Pertinent equipment" means channels, rollers, compensators, lockouts, pins and shutters used in connection with voting machines.

L.1945, c. 59, p. 335, § 1.

¹ N.J.S.A. §§ 19:48-3.15 to 19:48-3.21.

Historical and Statutory Notes

Title of Act:

An Act concerning municipal elections in certain municipalities, and supplementing "An act concerning elections, providing for the use of voting machines in first- and second-class counties, mak-

ing an appropriation to the State House Commission, and supplementing chapter forty-eight of Title 19 of the Revised Statutes," approved February ninth, one thousand nine hundred and forty-four (P.L.1944, c. 7). L.1945, c. 59, p. 335.

Library References

Words and Phrases (Perm.Ed.)

19:48-3.16. Purpose of act

The purpose of this act is to provide a method of establishing a uniform system of voting, by voting machines in all election districts, at any municipal election, in municipalities in which voting machines have been installed, pursuant to the provisions of the act to which this act is a supplement, for use in part of, but not in all of, such election districts.

L.1945, c. 59, p. 335, § 2.

19:48-3.17. Renting of voting machines

In any case in which voting machines have been so installed for use in part of, but not in all of, the election districts of any municipality in any county of the first or second class, thereby preventing the holding of any such municipal election in such municipality with the use of voting machines in all election districts, in accordance with the provisions of law relating to elections where voting machines are used, the superintendent of elections of any such county having a superintendent of elections or the county board of elections of any such county of the second class, if there be no superintendent of elections, as the case may be, may rent from any other county or counties in which voting machines have been installed under any law other than the act to which this act is a supplement, as many voting machines and any pertinent equipment as, in his or its judgment, shall be necessary to carry out the purpose of this act by providing voting machines for use in all of such election districts in such municipality at any municipal election to be held therein; provided, however, that all voting machines so rented shall conform substan-

tially to the type of voting machines already installed for use in such municipality.

L.1945, c. 59, § 335, § 3. Amended by L.1947, c. 168, p. 768, § 29.

19:48-3.18. Agreements for rental of voting machines; terms and conditions

Such superintendent of elections or such county board of elections, as the case may be, of the county in which such municipality is located, is hereby authorized and empowered, in behalf and in the name of the county in which the voting machines are to be used, to enter into an agreement with the board of chosen freeholders of the county owning such machines, which board is also hereby authorized and empowered to enter into such an agreement, for the rental of such machines and any pertinent equipment for use at any such municipal election, upon the following terms and upon such additional terms as may be mutually agreed upon, and any such agreement made pursuant to the provisions of this act shall be binding upon the respective counties:

a. The rental rate for each machine and any pertinent equipment accompanying the same shall not exceed five dollars (\$5.00);

b. The machines and any pertinent equipment rented shall be transported entirely at the expense of the county in which the same are to be used;

c. The board of chosen freeholders of the county from which the machines are rented shall cause the counters within all machines rented to be set at zero (000) at least fifteen days before the date of the municipal election in which the machines are to be used;

d. The machines and any pertinent equipment rented, after delivery thereof to such superintendent of elections or such county board of elections, as the case may be, shall, except when being transported and when actually at the polling places, be stored in a suitable place which shall be a fireproof building in the county in which such municipality is located;

e. The machines and any pertinent equipment rented shall be returned to their usual place of storage in the county from which they are rented not later than twenty days after the municipal election in which they are to be used, with the counter within each machine set at zero (000);

f. The machines and any pertinent equipment rented shall be duly returned to the place of storage thereof in the county from which they are rented in the same condition as when leaving such place; and any partial or total damage done to any machine or pertinent equipment from any cause whatever, between the time of leaving

such place of storage and its return thereto, shall be repaired or replaced at the expense of the county in which the same are to be used.

L.1945, c. 59, p. 336, § 4.

19:48-3.19. Certification to municipal clerk of voting machines rented

In the event such an agreement is made, such superintendent of elections or such county board of elections, as the case may be, shall, before the thirtieth day prior to the date of the municipal election for which the voting machines have been so rented, certify in writing to the municipal clerk of the municipality in which such election is to be held that at least one voting machine will be provided for each election district of such municipality for use at such election.

L.1945, c. 59, p. 337, § 5.

19:48-3.20. Municipal clerk's duties on receipt of certification

Upon receipt of such certification, such municipal clerk shall proceed to prepare and furnish to such superintendent of elections or such county board of elections, as the case may be, at least seven days before any such election, official ballots of the type and in the number required by law for use in voting machines, and shall make such other arrangements as are necessary to hold such municipal election by the use of voting machines in all election districts of such municipality, in accordance with the provisions of law relating to elections where voting machines are used, and such election shall in all respects be so held and conducted.

L.1945, c. 59, p. 337, § 6.

19:48-3.21. Expenditures for voting machines rented; reimbursement of county by municipality

Such superintendent of elections or such county board of elections, as the case may be, is hereby authorized to expend for the purpose of this act a sum not to exceed forty dollars (\$40.00) per each voting machine rented plus any sum expended for the repair or replacement of any machines or pertinent equipment partially or totally damaged, which expenditures shall be in addition to any amount authorized to be expended, under Title 19 of the Revised Statutes, by such superintendent of elections or such county board of elections, as the case may be, and shall be paid, when certified to and approved by such superintendent of elections or such county board of elections, as the case may be, by the county treasurer of the county in which the machines are used; and the county making such payment shall be reimbursed therefor by the municipality holding such election, in the

same manner as is now provided by law for the payment of other expenses in connection with any election held in and for a municipality only.

L.1945, c. 59, p. 338, § 7.

Library References

Municipal Corporations Ⓒ259.

WESTLAW Topic No. 268.

C.J.S. Municipal Corporations § 1032.

19:48-4. Custody and care of machines

Voting machines, heretofore or hereafter installed in any manner provided by law, in any county not having a superintendent of elections, shall be placed, and remain, in the custody of the county board of elections, and voting machines, heretofore or hereafter installed in any manner provided by law, in any county having a superintendent of elections, shall be placed, and remain, in the custody of the superintendent of elections; except that voting machines, heretofore or hereafter installed in any municipality by the governing body thereof, in any manner provided by law, shall be placed, and remain, in the custody of the municipal clerk unless taken over by the county according to law.

The county board of elections or the superintendent of elections or the municipal clerk, as the case may be, shall preserve and keep in repair all voting machines placed in its or his custody pursuant to the provisions of this section.

Amended by L.1947, c. 168, p. 764, § 24.

Historical and Statutory Notes

Source: L.1935, c. 302, § 4, p. 948.

Library References

Elections Ⓒ222.

WESTLAW Topic No. 144.

C.J.S. Elections § 203.

19:48-5. Payment for machines

Any voting machines owned and in use by a municipality at the time of a county-wide installation at county expense may be taken over by the county if mutually agreeable between the county and municipality. In no case shall the municipality be reimbursed to the extent of more than the original cost of the machines. Any county and the board of chosen freeholders thereof and any municipality

and the governing body thereof on the adoption and rental or purchase of voting machines shall provide for the payment thereof in such manner as the governing body of such governmental unit deems best according to the financial condition of such unit, and the governing body may meet the necessary expenditure by budget appropriation, and for the purpose of purchasing shall have the power within this subtitle to borrow money and issue negotiable bonds to pay for same, in accordance with and subject to the provisions of article 1 of chapter 1 of the title Municipalities and Counties (§ 40:1-1 et seq.).

Historical and Statutory Notes

Source: L.1935, c. 302, § 5, p. 948.

19:48-6. Duties of officials concerning machines

The county board of elections or the superintendent of elections or the municipal clerk, as the case may be, having custody of voting machines, shall have the machine or machines and all necessary furniture and appliances at the proper polling place or places before the time fixed for opening the polls, and the counters set at zero (000), the emergency ballot boxes furnished with the appropriate number of emergency ballots, and otherwise in good and proper order for use at such election. For the purpose of placing ballots in the ballot frames of the machines; putting in order, setting, testing, adjusting and delivering the machines, such county board of elections or such superintendent of elections or such municipal clerk, as the case may be, may employ or appoint one or more fully competent persons to be known as custodian or custodians of voting machines, who shall be thoroughly instructed in their duties by such county board of elections or such superintendent of elections or such municipal clerk, as the case may be, and shall be sworn to perform their duties honestly and faithfully. Such custodians shall be employed or appointed and instructed at least thirty days before the election and shall be considered as officers of elections; provided, however, that for the purpose aforesaid in counties having a superintendent of elections, the superintendent of elections may employ or appoint, in addition to one or more custodian or custodians, other fully competent persons and may classify them, assign their duties, and fix their compensation according to the particular duties assigned them, which said persons shall also be employed or appointed, and thoroughly instructed and sworn to perform their duties honestly and faithfully, at least thirty days before the election and shall likewise be considered as officers of election.

Before preparing a voting machine for any election, written notice shall be mailed by such board of elections or such superintendent of elections or such municipal clerk, as the case may be, to the chairman of the county committee of at least two of the principal political parties, stating the time and place where the machines will be prepared, at which time one representative of each such political party shall be afforded an opportunity to see that the machines, including the emergency ballot boxes, are in proper condition for use in the election; such representatives shall be sworn to faithfully perform their duties and shall be regarded as election officials, but shall not interfere with the custodian or custodians or other persons employed or appointed as aforesaid or assume any of his or their duties. When a machine and the affixed emergency ballot box have been so examined by such representatives, the emergency ballot box shall be sealed with a numbered green seal and the voting machine shall be locked against voting and sealed with a numbered seal. Such representatives shall certify, upon a form to be provided by such county board of elections or such superintendent of elections or such municipal clerk, as the case may be, as to the numbers of the machines and emergency ballot boxes, that all of the counters are set at zero (000) and the ballot boxes are furnished with the emergency ballots, and as to the numbers registered on the protective counter, if one is provided, and on the seals. Such certificate shall be filed by them with such county board of elections or such superintendent of elections or such municipal clerk, as the case may be. After a voting machine and an emergency ballot box have been properly prepared for the election and the machine locked against voting and sealed, the keys for the voting machine shall be delivered to such county board of elections or such superintendent of elections or such municipal clerk, as the case may be, together with a written report made by a custodian stating that the machine and the affixed emergency ballot box are in every way properly prepared for the election.

After the voting machines shall be delivered to the polling places, the governing body of the municipality, wherein such polling places are located, shall provide ample police protection against molestation, or tampering or damage to the machines. Every voting machine shall be furnished with a lantern, or an electric light fixture, which shall give sufficient light to enable voters while voting to read the ballots and be suitable for use by the district board in examining the counters. The lantern or electric light fixture shall be prepared in good order by such county board of elections or such superintendent of elections or such municipal clerk, as the case may be, for use before the opening of the polls.

Amended by L.1945, c. 56, p. 322, § 2; L.1947, c. 168, p. 765, § 25; L.1992, c. 3, § 6.

Historical and Statutory Notes

L.1992, c. 3, § 30, approved April 24, 1992, provides:

"This act [L.1992, c. 3] shall take effect immediately [April 24, 1992] and shall be applicable to the first primary for the

general election or the first general election which occurs after the 60th day following the enactment of this act."

Source: L.1935, c. 302, § 9, p. 950.

Library References

Texts and Treatises

25 Am Jur 2d, Elections §§44, 45.

19:48-7. Voting machine out of order

If any voting machine being used in any election district shall, during the time the polls are open, become damaged so as to render it inoperative in whole or in part, the election officers shall immediately give notice thereof to the county board of elections or the superintendent of elections or the municipal clerk, as the case may be, having custody of voting machines, and such county board of elections or such superintendent of elections or such municipal clerk, as the case may be, shall cause any person or persons employed or appointed pursuant to section 19:48-6 of this Title to substitute a machine in perfect mechanical order for the damaged machine. At the close of the polls the records of both machines shall be taken and the votes shown on their counters shall be added together in ascertaining and determining the results of the election. During any period when a voting machine is inoperative, emergency ballots made as nearly as possible in the form of the official ballot shall be used in accordance with the provisions of this amendatory and supplementary act, P.L.1992, c. 3 (C. 19:53B-1 et al.), received by the election officers and placed by them in an emergency ballot box as provided in this amendatory and supplementary act, P.L.1992, c. 3 (C. 19:53B-1 et al.), and shall be counted with the votes registered on the voting machines. The result shall be declared the same as though there had been no accident to the voting machine. The emergency ballots thus voted shall be preserved and returned with a statement setting forth how and why the same were voted. The original statement shall be filed with the county or municipal clerk, as the case may be; a copy of the statement shall be filed with the commissioner of registration; and an additional copy shall be placed in the emergency ballot box. The statement for use in all elections except primary elections shall be in the following form:

..... ELECTION

STATEMENT FOR EMERGENCY PAPER BALLOTS VOTED

This statement must be completed by all election district board workers present when a voting machine malfunctions and emergency paper ballots are issued and voted. N.J.S.A. 19:48-7.

This is to certify that voting machine no. became inoperative at AM, PM. We further certify that emergency paper ballots were issued and voted during the time the voting machine. assigned to Election District no. in (municipality) was inoperative. The last voting authority given out before the voting machine became inoperative was no.

This day of 19.....

TO BE COMPLETED ONLY IF VOTING MACHINE IS REPLACED

Voting machine no. was replaced by voting machine no. at AM, PM.

The next voting authority given out after the voting machine was replaced was no.

TO BE COMPLETED WHEN VOTING MACHINE HAS BEEN
REPAIRED AND IS READY TO RECEIVE VOTES

Voting machine no. was repaired at AM, PM.

The next voting authority given out after the voting machine was repaired was no.

Signature of Judge

Signature of Clerk

Signature of Inspector

Signature of Clerk

Municipality

Signature of Voting
Machine Technician

Ward

District

The statement for use in the primary election shall be in the following form:

PRIMARY ELECTION

STATEMENT FOR EMERGENCY PAPER BALLOTS VOTED

This statement must be completed by all election district board workers present when a voting machine malfunctions and emergency paper ballots are issued and voted. N.J.S.A. 19:48-7.

This is to certify that voting machine no. became inoperative at AM, PM. We further certify that emergency paper ballots were issued and voted during the time the voting machine assigned to Election District no. in (municipality) was inoperative. The last voting authorities given out before the voting machine became inoperative were REPUBLICAN NO., DEMOCRATIC NO.

This day of 19

TO BE COMPLETED ONLY IF VOTING MACHINE IS REPLACED

Voting machine no. was replaced by voting machine no. at AM, PM.

The next voting authorities given out after the voting machine was replaced were REPUBLICAN NO., DEMOCRATIC NO.

TO BE COMPLETED WHEN VOTING MACHINE HAS BEEN REPAIRED AND IS READY TO RECEIVE VOTES

Voting machine no. was repaired at AM, PM.

The next voting authorities given out after the voting machine was repaired were REPUBLICAN NO., DEMOCRATIC NO.

Signature of Judge

Signature of Clerk

Signature of Inspector

Signature of Clerk

Municipality

Signature of Voting
Machine Technician

Ward

District

If a voting machine fails to operate on multiple occasions during a single election, a STATEMENT FOR EMERGENCY PAPER BALLOTS VOTED shall be completed on each occasion when the machine fails to operate.

Amended by L.1945, c. 56, p. 325, § 3; L.1992, c. 3, § 7.

Historical and Statutory Notes

L.1992, c. 3, § 7, provided for the use of emergency ballots when voting machine was inoperative, required that such ballots be returned with an explanatory statement, rather than a certificate; required the filing of the original statement and duplicates with proper authorities; provided text of statements for emergency paper ballots voted in elections and required that statement be filed for each individual failure of a machine during an election.

L.1992, c. 3, § 30, approved April 24, 1992, provides:

"This act [L.1992, c. 3] shall take effect immediately [April 24, 1992] and shall be applicable to the first primary for the general election or the first general election which occurs after the 60th day following the enactment of this act."

Source: L.1935, c. 302, § 14, p. 954.

Notes of Decisions

Emergency ballots 2 Remedies 3 Repair 1

1. Repair

This section requires that working voting machine be substituted for machine which is inoperative on election day and requires speedy repair of the damaged machine. *Magura v. Smith*, 131 N.J.Super. 395, 330 A.2d 52 (L.1974).

Where repair of inoperative voting machine was not made until about two hours after malfunction was noted on election day, this section requiring speedy repair of machine had not been complied with. *Magura v. Smith*, 131 N.J.Super. 395, 330 A.2d 52 (L.1974).

2. Emergency ballots

Use of emergency ballots in township council election was permissible after

voting machine broke down and was unavailable for use for about three and one-half hours. In re 1984 General Election for the Office of Council of the Tp. of Maple Shade Burlington County, 203 N.J.Super. 563, 497 A.2d 577 (L.1985).

3. Remedies

Setting aside of township council election results in voting district where only voting machine broke down and holding new election in that district, instead of simply eliminating its votes from municipal totals, was proper, as only the election in that district was challenged, and as no irregularities had been shown to have occurred in any other district. In re 1984 General Election for the Office of Council of the Tp. of Maple Shade Burlington County, 203 N.J.Super. 563, 497 A.2d 577 (L.1985).

19:48-8. Rental of voting machines to associations, clubs, etc.; terms

The superintendent of elections of any county having a superintendent of elections or the county board of elections of any county not having a superintendent of elections may, upon application of any recognized association, club, fraternity, union or other group of persons whose constitution or by-laws requires the election of officers by secret ballot, rent to said association, club, fraternity, union or other group of persons, one or more voting machines owned by said county for the purpose of conducting said secret election, at a rental and upon such terms as may be determined upon by such superintendent of elections or county board of elections.

L.1966, c. 120, § 1, eff. June 17, 1966.

Historical and Statutory Notes**Title of Act:**

An Act concerning elections, supplementing chapter 48 of Title 19 of the Revised Statutes, and providing for the rental of voting machines. L.1966, c. 120.

Library References

Elections Ⓒ222.

WESTLAW Topic No. 144.

C.J.S. Elections § 203.

CHAPTER 49

BALLOTS

Section

- 19:49-1. Official ballots furnished.
19:49-2. Printing official ballots; ballots in counties where voting machines are used; position of candidates' names on ballot.
19:49-2.1. Repeal.
19:49-3. Number of official ballots to be furnished.
19:49-4. Instruction ballots; sample ballots; preparation; mailing; posting.
19:49-5. Irregular ballots.

Library References

Elections \S 160 et seq., 222.

WESTLAW Topic No. 144.

C.J.S. Elections \S 149 et seq., 203.

WESTLAW Computer Assisted Legal Research

WESTLAW supplements your legal research in many ways. WESTLAW allows you to

- update your research with the most current information
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For more information on using WESTLAW to supplement your research, see the WESTLAW Electronic Research Guide, which follows the Preface.

19:49-1. Official ballots furnished

Official ballots of the form and description set forth in this subtitle for use upon voting machines shall be prepared and furnished in the same manner as now provided by law.

Historical and Statutory Notes

Source: L.1935, c. 302, \S 12, p. 953.

Library References

Elections \S 163.

WESTLAW Topic No. 144.

C.J.S. Elections \S 155.

Notes of Decisions

Related laws 1

1. Related laws

Section 19:14-1 et seq., which regulate official and sample ballots generally, and § 19:49-1 et seq., which regulate ma-

chine ballots, had to be read together, since first statute, many provisions of which were drafted for application to paper ballots, remained in force, even though paper ballots were no longer in use anywhere in state. *Millman v. Kelly*, 171 N.J.Super. 589, 410 A.2d 283 (L.1979).

19:49-2. Printing official ballots; ballots in counties where voting machines are used; position of candidates' names on ballot

All official ballots shall be printed on clear white paper or cardboard of such form and size as will fit the ballot frames of the machines, printed in black ink in type as large as the space will reasonably permit; provided, however, that any public question which shall be placed on the ballot shall be printed in red ink and above any public question to be voted upon by the voters of the entire State there shall be printed, also in red ink, a description of the public question, which description shall not exceed six words and shall be printed in type as large as is practicable. Party nominations shall be arranged on each voting machine, either in columns or horizontal rows; the caption of the various ballots on the machines shall be so placed on the machines as to indicate to the voter what push knob, pointer, lever or other device is to be used or operated in order to vote for the candidates or candidate of his choice. The providing of the official ballots and the order of the precedence and arrangement of parties and of candidates shall be as now required by law; provided, however, that in those counties where voting machines are used, the specifications for the printing of the official ballots shall be drawn by the county clerk.

For the primary election for the general election in all counties where voting machines are or shall be used, all candidates who shall file a joint petition with the county clerk of their respective county and who shall choose the same designation or slogan shall be drawn for position on the ballot as a unit and shall have their names placed on the same line of the voting machine; and provided further, that all candidates for municipal or party office in municipalities in counties where voting machines are or shall be used who shall file a petition with the clerk of their municipality bearing the same designation or slogan as that of the candidates filing a joint petition with the county clerk as aforesaid, may request that his or her name be placed on the same line of the voting machine with the candidates who have filed a joint petition with the county clerk as aforesaid by so notifying the county clerk of said county in writing within two

days after the last day for filing nominating petitions and thereupon the county clerk shall forthwith notify the campaign manager of such candidates filing a joint petition as aforesaid of said request, and if the said campaign manager shall file his consent in writing with the said county clerk within two days after the receipt of said notification from said county clerk, the clerk of said county shall place the name of such candidate on the same line of the voting machine on which appears the names of the candidates who have filed the joint petition as aforesaid; provided, also, that any candidate filing a petition with the Secretary of State may request that his or her name be placed on the same line of the voting machine with the candidates who have filed a joint petition with the county clerk as aforesaid by so notifying the county clerk of said county in writing within two days after the last day for filing nominating petitions, and thereupon the county clerk shall forthwith notify the campaign manager of such candidates filing a joint petition as aforesaid of said request, and if the said campaign manager shall file his consent in writing with the said county clerk within two days after the receipt of said notification from said county clerk, the clerk of said county shall place the name of such candidate on the same line of the voting machine on which appears the names of the candidates who have filed the joint petition as aforesaid.

Amended by L.1940, c. 137, p. 301, § 1; L.1941, c. 163, p. 519, § 1; L.1944, c. 127, p. 350, § 1; L.1945, c. 70, p. 348, § 1; L.1946, c. 17, pp. 48, 50, §§ 1, 2; L.1948, c. 240, p. 1081, § 1.

Historical and Statutory Notes

Source: L.1935, c. 302, § 6, p. 949.

Section 2 of the amendatory Acts of 1944 and 1945 repealed all acts and parts of acts inconsistent therewith insofar as

they relate to counties of the first class where voting machines are or shall be used.

Library References

Elections ⇨ 163, 166, 167.

WESTLAW Topic No. 144.

C.J.S. Elections § 155 et seq.

Texts and Treatises

26 Am Jur 2d, Elections § 207.

WESTLAW Electronic Research

See WESTLAW Electronic Research Guide following the Preface.

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1. Validity

Even if it is true that an unaffiliated primary candidate would draw more votes if his opponent's name were not grouped with those of candidates for other offices, that affords no basis for invalidating, as unreasonable, the legislative determination that, whatever the effect on an unaffiliated candidate, the public interest is better served by permitting a grouping of candidates having common aims or principles and authorizing those candidates to have such fact brought to the attention of the voter in a primary election with the additional effectiveness produced by alignment of their names on the voting machine ballot. *Quaremba v. Allan*, 67 N.J. 1, 334 A.2d 321 (1975).

Fact that, under this section and § 19:23-24, different procedures are provided governing the positioning of the names of primary election candidates when voting machines are used than when paper ballots are used does not result in a denial, either to the voters or the candidates, of equal protection of the laws. *Quaremba v. Allan*, 67 N.J. 1, 334 A.2d 321 (1975).

There was nothing inherently wrong or invidiously discriminatory in permitting primary election candidates choosing the same designation or slogan to be grouped together on the ballot. *Quaremba v. Allan*, 128 N.J.Super. 570, 321 A.2d 266 (A.D.1974), certification granted 66 N.J. 312, 331 A.2d 12, modified on other grounds 67 N.J. 1, 334 A.2d 321.

2. Related laws

By its terms, this section relating to right of primary candidates who choose the same designation or slogan to have their names placed on same line of voting machine is applicable to primary elections in counties which have voting machines rather than § 19:23-24 providing that the position of candidates for given offices be determined by drawing their names except that several candidates for office may request bracketing of their names which then will be treated as one. *Quaremba v. Allan*, 128 N.J.Super. 570, 321 A.2d 266 (A.D.1974), certification granted 66 N.J. 312, 331 A.2d 12, modified on other grounds 67 N.J. 1, 334 A.2d 321.

3. Purpose of ballot

Proposed plan of county clerk to place name of plaintiff, who had filed a separate petition for nomination for office of State Senator, had designated his own campaign manager, and had chosen slogan different from that of regularly designated candidates of party, on column of voting machine immediately adjacent to column with names of regularly designated candidates comported with purpose of a ballot. *Farrington v. Falcey*, 96 N.J.Super. 409, 233 A.2d 185 (A.D.1967).

For purposes of this section providing that for the primary election or a general election in all counties where voting machines are or shall be used, all candidates who shall file a joint petition with the county clerk of their respective county and who shall choose the same designation or slogan shall be drawn for position on the ballot as a unit and shall have their names placed on the same line of the voting machine, the use of the words "line of voting machine" has the same significance and application as the words "column of voting machine" in type of machine where the names of candidates appear in vertical columns rather than on horizontal lines. *Farrington v. Falcey*, 96 N.J.Super. 409, 233 A.2d 185 (A.D.1967).

4. Line on voting machine

Section 19:14-12 authorizing county clerk to draw lots to determine which columns political parties should occupy on ballot gives clerk a clear direction as to what lines were to be used and clerk had to use lines in precise order in which they appeared on machine and could not

leave a blank line. *Axtell v. Caputo*, 85 N.J.Super. 80, 204 A.2d 7 (A.D.1964).

5. Discretion of clerk

While county clerk has discretion in matters relating to ballot when necessary legislative directions have not been provided, that rule provides no license for his addition of unnecessary material. *Millman v. Kelly*, 171 N.J.Super. 589, 410 A.2d 283 (L.1979).

Under this section mandating that members of a group of primary candidates who file a joint petition "be placed on the same line of the voting machine" and that, if there be more than one such group, a drawing be held between each group as a unit to determine the group's position on the voting machine, the matter of allotting positions on the voting machine to candidates who are not part of such a group is, absent any legislative direction, a matter within the reasonable discretion of the county clerk. *Quaremba v. Allan*, 67 N.J. 1, 334 A.2d 321 (1975).

There was substantial evidence to support finding that county clerk in determining positions of primary candidates on ballot in accordance with statutory requirement did not unreasonably exercise his discretion so as to discriminate against plaintiff candidates or deprive them of or interfere with their constitutional rights. *Quaremba v. Allan*, 128 N.J.Super. 570, 321 A.2d 266 (A.D.1974), certification granted 66 N.J. 312, 331 A.2d 12, modified on other grounds 67 N.J. 1, 334 A.2d 321.

The county clerk is given a wide discretion in setting up the ballot, and the courts should not interfere with the exercise of that discretion unless clearly unreasonable. *Farrington v. Falcey*, 96 N.J.Super. 409, 233 A.2d 185 (A.D.1967).

County clerk's proper exercise of discretion required that all of party candidates be placed on same line on general election voting machine ballot even though party was not political party as defined in Election Law and not all of positions in prior line were filled. *Id.* *Farrington v. Falcey*, 96 N.J.Super. 409, 233 A.2d 185 (A.D.1967).

Election Act statute stating that providing of official ballots and order of precedence and arrangement of parties and of candidates shall be as required by law is

not neutralized or countermanded by proviso permitting county clerk in voting machine counties to draw specifications for printing of official ballots. *Axtell v. Caputo*, 85 N.J.Super. 80, 204 A.2d 7 (A.D.1964).

Except where there is clear statutory direction of a particular course of placement of names of candidates on voting machine ballot, county clerks have a large measure of discretion in arranging primary election ballots. *Harrison v. Jones*, 44 N.J.Super. 456, 130 A.2d 887 (A.D.1957).

The county clerk in his discretion could decide without drawing lots on the positions of parties or candidates on voting machine ballot at primary election for nomination for members of Legislature and for county offices. *Bado v. Gilfert*, 13 N.J.Super. 363, 80 A.2d 564 (A.D. 1951).

6. Timeliness of request

A taxpayer's action to set aside borough resolution requesting county clerk to print upon official ballots to be used at the general election on November 4, 1958, the question as to whether any action should be considered to effect a deconsolidation of consolidated school district and to direct a county clerk to remove the question from the ballot was not dismissible as coming too late because county clerk already had printed and delivered sample and official ballots, where portion of ballot setting forth the question could be removed from voting machines without practical difficulty. *Botkin v. Mayor and Borough Council of Borough of Westwood*, 52 N.J.Super. 416, 145 A.2d 618 (A.D. 1958), appeal dismissed 28 N.J. 218, 146 A.2d 121.

Where failure of contesting candidates for Republican Party nominations for offices of councilmen and county committeemen in borough to make request, on or prior to March 11, the statutory deadline, that county clerk place their names on same line on primary election machine ballots with county ticket bearing same designation "Regular Organization Republican" as contesting candidates, was because of refusal by borough clerk to certify such designation in favor of contesting candidates, and contesting candidates immediately sought judicial relief against borough clerk and then

made request of county clerk for alignment with county ticket on March 25, first business day after court vindicated their right to disputed designation, failure to make request on or prior to March 11 was excusable, and county clerk was justified in acceding to request. *Harrison v. Jones*, 44 N.J.Super. 456, 130 A.2d 887 (A.D.1957).

Where action by one primary candidate against a second primary candidate to have deleted certain words from slogan of the latter was not timely when based on premise that slogan prejudiced plaintiff and was sustainable only as an action to compel printing of ballots in accordance with law relating to use of a third party's name in slogan, plaintiff was not entitled to have the words "Reg." and "Party" deleted from defendant's slogan "Reg. Republican Party". *MacManus v. Allan*, 2 N.J.Super. 557, 65 A.2d 134 (L.1949).

7. Position on ballot—In general

Under this section relating to the order of placement of names of primary candidates on voting machines, candidates not affiliated with county candidates may be entitled to a drawing for position as among themselves but they are not entitled to have names appear in same column with jointly listed county candidates and those affiliated with them. *Quaremba v. Allan*, 128 N.J.Super. 570, 321 A.2d 266 (A.D.1974), certification granted 66 N.J. 312, 331 A.2d 12, modified on other grounds 67 N.J. 1, 334 A.2d 321.

Alignment of all governor candidates with county slate or row bearing designation as official regular organization of one political party was illegal and void. *Alaimo v. Burdge*, 63 N.J. 574, 310 A.2d 730 (1973).

Consensual arrangement of all governor candidates to run on single row of ballot with a drawing for line or column position would be given effect, governor candidates would be placed on a row of one political party's part of the ballot, with no other county or state candidate, and the county clerk would conduct drawing for position on such row. *Alaimo v. Burdge*, 63 N.J. 574, 310 A.2d 730 (1973).

In view of fact that party's regularly designated candidates, who had filed joint nominating petitions for primary election, had slogan and campaign man-

ager different from those of plaintiff, and in view of fact that their campaign manager had not consented to plaintiff's name being placed in same column on voting machine, plaintiff was not entitled to have his name appear in same column with regularly designated candidates. *Farrington v. Falcey*, 96 N.J.Super. 409, 233 A.2d 185 (A.D.1967).

8. — Affiliated or unaffiliated candidates, position on ballot

Unless impossible because of physical limitations of the voting machine at a particular primary election, the county clerk must give effect on the ballot to a consensual arrangement whereby all the candidates at a given level agree to run on a line of their own for any given office with no other candidate. *Quaremba v. Allan*, 67 N.J. 1, 334 A.2d 321 (1975).

Where there are two or more groups of state candidates who have not affiliated with county candidates, they are entitled, as units, to a drawing for position on ballot as among themselves, but not as against those affiliated with county candidates, for state candidates who affiliate with county candidates may not be displaced from their position on same line with their affiliated county candidates. *Moskowitz v. Grogan*, 101 N.J.Super. 111, 243 A.2d 280 (A.D.1968).

9. — Drawing for position on ballot

Section 19:23-24 which allegedly required the use of cards rather than capsules in the drawing for positions on primary ballots was not applicable to county in which voting machines were used. *Garramone v. Caputo*, 149 N.J.Super. 582, 374 A.2d 485 (A.D.1977), certification denied 74 N.J. 285, 377 A.2d 690.

Slate of delegates to national party convention was not entitled to drawing for position on ballot with other slates which were affiliated with county candidates. *Moskowitz v. Grogan*, 101 N.J.Super. 111, 243 A.2d 280 (A.D.1968).

Where county was a county where voting machines were used, § 19:23-24, providing that position on primary ballots in case of candidates for municipal office or party position shall be determined by a drawing to be conducted by the municipal clerk and that names of candidates shall be printed on ballots in the order as determined as a result of the drawing, except in counties where this section

dealing with ballots in counties where voting machines are used applies, was not applicable. *Harrison v. Jones*, 44 N.J.Super. 456, 130 A.2d 887 (A.D.1957).

Sections 19:23-24 and 19:49-2 reveal no express legislative direction as to drawing for positions on ballots when independent unaffiliated candidates and candidates affiliated under a slogan are present in the field. In *re Hoffman*, 134 N.J.L. 155, 46 A.2d 446 (1946).

This section and §§ 19:23-24, 19:49-2.1 reveal no express legislative direction as to drawing for positions upon the ballot when independent unaffiliated candidates and candidates affiliated under a slogan were present in the field. *Hawkes v. Gates*, 129 N.J.L. 5, 28 A.2d 50 (1942).

10. Group by political belief

Candidates of similar political view in general elections may group themselves together on the ballot under a common designation thus, for example, the generally familiar Republican and Democratic lines; candidates of similar political belief may similarly group themselves in primary elections although obviously not by political party since it is the party nomination that they are seeking. *Gillen v. Sheil*, 174 N.J.Super. 386, 416 A.2d 935 (L.1980).

11. Joint petition

In enacting this section pertaining to the bracketing of affiliated candidates on the ballot, the legislature intended to provide for bracketing of candidates in all primary elections; and when there exists only one office for which petitions may be filed with the county clerk, such petitions fulfill the statute's joint petition requirement of this section—they are the joint petitions referred to therein. *Gillen v. Sheil*, 174 N.J.Super. 386, 416 A.2d 935 (L.1980).

12. Error on ballot

Contention that only seven election districts required new sample ballots since those were only districts considering municipal questions and those questions reflected only serious disarrangement of ballot ignored significance of misdirec-

tions heading public question column, which affected all official ballots, and also suggested that court had discretion with which to overlook statutory violations when such discretion did not exist. *Millman v. Kelly*, 171 N.J.Super. 589, 410 A.2d 283 (L.1979).

Error occurring in official ballot, in which certain state question was headed by eight-word description, rather than by six words or less, involved only a directory provision of this section and need not be changed, where such wording was certified to county clerk by Secretary of State, so that it presumably appeared in every election district in New Jersey, and a change in such language, which offered no prospect of confusing voter, was practical impossibility at this late date. *Millman v. Kelly*, 171 N.J.Super. 589, 410 A.2d 283 (L.1979).

13. Reprinting ballot

Fact that official ballot would appear in somewhat different form from sample ballot did not affect decision to require reprinting of official ballot, which contained not too serious errors, because they could be reprinted and inserted in voting machines before general election was held, while not requiring reprinting of sample ballots, which contained same errors, because of lack of time, where differences were not so significant as to mislead voters, and it was only when matters of substance, not appearing on sample ballot, were added to official ballot that such became a problem. *Millman v. Kelly*, 171 N.J.Super. 589, 410 A.2d 283 (L.1979).

14. Cost of printing ballots

Adoption of voting machines in county is not intended by Legislature to alter general provisions concerning responsibility for cost of printing ballots. Atty. Gen.F.O.1961, No. 1.

15. Review

In view of emergent nature of case involving alignment of candidates on county slates, formal application for direct certification from trial court would be granted. *Alaimo v. Burdige*, 63 N.J. 574, 310 A.2d 730 (1973).

19:49-2.1. Repeal

All acts or parts of acts inconsistent herewith are hereby repealed insofar as they relate to counties of the first class where voting machines are or shall be used.

L.1941, c. 163, p. 521, § 2.

19:49-3. Number of official ballots to be furnished

At least one week prior to any primary, local, or general election two sets of official ballots shall be provided for each voting machine, for each polling place, for each election district, for use in and upon the voting machine. One set thereof shall be inserted or placed in or upon the voting machine and the other shall be retained in the custody and possession of the county board of elections or the superintendent of elections or the municipal clerk, as the case may be, having custody of voting machines, unless it shall become necessary during the course of the election to make use of the same upon or in the voting machine. At the close of the election all official ballots, except those actually in or upon the voting machine at the close of the election, whether the same shall have been used in the machine or not, shall be returned to the official providing the same in the manner by this Title provided.

Amended by L.1945, c. 56, p. 325, § 4.

Historical and Statutory Notes

Source: L.1935, c. 302, § 8, p. 950.

Library References

Elections ⇨163.

WESTLAW Topic No. 144.

C.J.S. Elections § 155.

19:49-4. Instruction ballots; sample ballots; preparation; mailing; posting

a. (1) The officer or officers whose duty it may be under this subtitle to provide and furnish official ballots for any polling place where a voting machine is to be used shall also provide 2 sample ballots or more, or instruction ballots, which sample or instruction ballot shall be arranged in the form of a diagram showing such portion of the face of the voting machine as it will appear after the official ballots are arranged thereon or therein for voting on election day. Such sample or instruction ballots shall be open to the inspection of all voters on election day, in all elections where voting machines are used.

(2) For election districts in which the primary language of 10% or more of the registered voters is Spanish, the officer or officers whose duty it may be under this subtitle to provide and furnish official ballots for any polling place where a voting machine is to be used shall also provide 2 sample ballots or more, or instruction ballots, printed bilingually in English and Spanish. Such sample or instruction ballots shall be open to the inspection of all voters on election day, in appropriate election districts, in all elections where voting machines are used.

b. There shall be furnished a sufficient number of sample ballots printed entirely in black ink, a facsimile of the face of the machine, of a reduced size, one of which sample ballots shall be mailed to each registered voter, except that for election districts in which the primary language of 10% or more of the registered voters is Spanish, sample ballots printed bilingually in English and Spanish shall be mailed to each registered voter. Any reference to sample ballot envelopes in any section of this Title to the contrary notwithstanding, in all counties where voting machines are used and wherein the commissioner of registration has the facilities to mail out sample ballots direct to the registrants of such county and has elected so to do, as otherwise in this Title provided, the commissioner of registration in any such county may request the county clerk of such county to have the sample ballots prepared in the manner following:

(1) The county clerk shall have said sample ballots for all general and special elections printed in such manner that, when folded, the words "Official General Election Sample Ballot" or as the case may be, shall appear on the reverse side thereof, together with the words "In cases where the sample ballot is to be sent to an addressee who does not receive his mail by delivery to his home or through rural free delivery 'if not delivered within 5 days return to the commissioner of registration' and in all other cases 'if not delivered within 2 days return to the commissioner of registration.' Do not Forward. Return Postage Guaranteed" over the return address of the commissioner of registration. Such portion of the ballot may contain such additional words that conform with United States Postal regulations that will prevent such envelope from being forwarded to the voter at any other address than that appearing on the envelope, and that will cause such envelope to be returned to the commissioner of registration, with information thereon from the post office showing the reason for nondelivery.

(2) The county clerk in drawing the specifications for the printing of the official primary ballots shall include the requirement that the municipal clerks shall have primary sample ballots printed in such manner that, when folded, the words "Official Primary Election

Sample Ballot" shall appear on the reverse side thereof, together with the words "In cases where the sample ballot is to be sent to an addressee who does not receive his mail by delivery to his home or through rural free delivery 'if not delivered within 5 days return to the commissioner of registration' and in all other cases 'if not delivered within 2 days return to the commissioner of registration.' Do Not Forward. Return Postage Guaranteed" over the return address of the commissioner of registration. Such portion of the ballot may contain such additional words that conform with United States Postal regulations that will prevent such envelope from being forwarded to the voter at any other address than that appearing on the envelope, and that will cause such envelope to be returned to the commissioner of registration, with information thereon from the post office showing the reason for nondelivery.

(3) Five sample ballots shall be posted as now required by law.

c. For all general and special elections the county clerk, and for all primary and municipal elections the municipal clerks, shall, at least 30 days preceding any such election, make the arrangements necessary to be made with the postmaster or postmasters in their respective counties and municipalities to have the said sample ballots mailed under the postal laws and regulations, and forthwith notify the said commissioner of registration in writing to that effect.

Amended by L.1947, c. 79, p. 456; § 1; L.1958, c. 105, p. 572, § 1; L.1969, c. 35, § 2, eff. May 9, 1969; L.1974, c. 30, § 14.

Historical and Statutory Notes

Source: L.1935, c. 302, § 7, p. 949.

Effective date of L.1974, c. 30, see Historical Note under § 19:6-1.

Library References

Elections ¶163.

WESTLAW Topic No. 144.

C.J.S. Elections § 155.

Notes of Decisions

Contents of ballot 1
Discretion of clerk 2
Reprinting ballots 3

heading "General Election Sample Voting Machine Ballot," and thus such language had to be corrected in future. *Millman v. Kelly*, 171 N.J.Super. 589, 410 A.2d 283 (L.1979).

1. Contents of ballot

The words "Official General Election Sample Ballot" must appear on reverse side of sample ballot when it was folded, but sample ballot in question contained

Sample ballots in evidence did not contain any column for personal choice although this must appear on official ballot, and thus in future this must be corrected, since this section provides that a sample

ballot is to be arranged in form of diagram showing such portion of face of voting machine as it will appear after official ballots are arranged thereon or therein for voting on election day and also requires that sample ballots are to be printed in form of facsimile of face of machine. *Millman v. Kelly*, 171 N.J.Super. 589, 410 A.2d 283 (L.1979).

2. Discretion of clerk

Except in minor instances, county clerk has no discretion with respect to election laws pertaining to wording and arrangement of official and sample ballots. *Millman v. Kelly*, 171 N.J.Super. 589, 410 A.2d 283 (L.1979).

3. Reprinting ballots

Fact that official ballot would appear in somewhat different form from sample ballot did not affect decision to require reprinting of official ballot, which contained not too serious errors, because they could be reprinted and inserted in voting machines before general election was held, while not requiring reprinting of sample ballots, which contained same errors, because of lack of time, where differences were not so significant as to mislead voters, and it was only when matters of substance, not appearing on sample ballot, were added to official ballot that such became a problem. *Millman v. Kelly*, 171 N.J.Super. 589, 410 A.2d 283 (L.1979).

19:49-5. Irregular ballots

Ballots voted for any person whose name does not appear on the machine as a nominated candidate for office are herein referred to as irregular ballots. Such irregular ballot shall be written or affixed in or upon the receptacle or device provided on the machine for that purpose. No irregular ballot shall be voted for any person for any office whose name appears on the machine as a nominated candidate for that office or for a delegate or alternate to a national party convention; any irregular ballot so voted shall not be counted. An irregular ballot must be cast in its appropriate place on the machine, or it shall be void and not counted.

Amended by L.1941, c. 166, p. 530, § 5; L.1984, c. 39, § 2, eff. May 4, 1984.

Historical and Statutory Notes

Source: L.1935, c. 302, § 16, p. 956.

Statement: Introductory statement to Senate, No. 1517—L.1984, c. 39, see § 19:48-1.

Library References

Elections ⇨ 181, 222.

WESTLAW Topic No. 144.

C.J.S. Elections §§ 180, 181, 203.

Texts and Treatises

26 Am Jur 2d, Elections § 224.

Notes of Decisions

Arrangement of ballot 3

Method of casting vote 1

Write-in votes 2

1. Method of casting vote

"Write-in" votes which do not bear a check mark or office or party designation are not invalidated when voting machine is used in primary election. Application of Klayman, 97 N.J.Super. 295, 235 A.2d 45 (L.1967).

This section permits eligible voter to write in his own handwriting or to affix name of any person by any legal means in or upon receptacle or device provided on voting machine for that purpose, and affixing of names of persons in or upon receptacle or device provided upon machine for that purpose by use of rubber stamps bearing names of persons was legal means of voting for such persons. Application for Recheck of Irregular Ballots, Borough of South River, Middlesex County, Districts 1 to 11, 26 N.J.Super. 357, 97 A.2d 773 (L.1953), vacated on other grounds 27 N.J.Super. 109, 98 A.2d 900.

In order for voter to cast vote for persons on irregular ballot on voting machine by either writing in or affixing name of person by any legal means, it is not necessary for voter to make a cross, plus, or check at left or right of such name. Application for Recheck of Irregular Ballots, Borough of South River, Middlesex County, Districts 1 to 11, 26 N.J.Super. 357, 97 A.2d 773 (L.1953), vacated on other grounds 27 N.J.Super. 109, 98 A.2d 900.

2. Write-in votes

Where plaintiff at no time sought nomination for office of mayor by direct petition and unsuccessfully sought to receive Republican nomination under statutes dealing with political party primary elections but successfully attained Democratic nomination as result of write-in votes in Democratic primary, his name not appearing on Democratic ballot, requirements and restrictions concerning filing of petitions for ballot position in political party primary were not applicable. *Riecker v. Hartmann*, 130 N.J.Super. 266, 326 A.2d 101 (L.1974).

The effect of validly cast write-in votes must remain unrestricted by technical restraints of election laws. *Riecker v. Hartmann*, 130 N.J.Super. 266, 326 A.2d 101 (L.1974).

Irregular ballot in voting machine primary election marked "Fran Petrucelli" would be counted for Frances Petrucelli who conducted a write-in campaign for the office. Application of Klayman, 97 N.J.Super. 295, 235 A.2d 45 (L.1967).

3. Arrangement of ballot

Where names of all candidates at primary were not printed on the ballots but were placed thereon in different colors on a rubber stamp and were not pasted in under the proper title of office in the column designated "personal choice," so that the voter could mark a cross or check in the square to the left of the name so written or pasted, ballots so voted were void as contrary to this section and could not be counted. Petition for Recheck of Voting Machines and Irregular Ballots in Third Ward of Jersey City, 19 N.J.Super. 449, 88 A.2d 678 (L.1952), appeal dismissed 19 N.J.Super. 187, 88 A.2d 227.

CHAPTER 50

INSTRUCTION CONCERNING VOTING MACHINE

Section

19:50-1. Instruction of election officers.

19:50-2. Instruction of voters before election.

19:50-3. Instructing voters on election day; assisting blind, disabled or illiterate voters.

Library References

Elections ☞222.

WESTLAW Topic No. 144.

C.J.S. Elections § 203.

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19:50-1. Instruction of election officers

Not less than 10 nor more than 21 days before each election, the county board of elections shall cause new members of the district boards who are to serve in election districts to be instructed in the conduct of elections, and in their duties in connection therewith. All district board members shall be required to attend said instructional sessions for each election at least once every two years. The county board of elections shall cause to be given to each member of each district board who has received such instruction and is fully qualified to properly conduct the election, a certificate to that effect. For the purpose of giving such instruction the county board of elections shall call such meeting or meetings of the district boards as shall be necessary. The content of said meeting or meetings shall be limited solely to the instruction of district board members; lobbying or the advancement of political ends shall be prohibited. The members of

the district board of each election district shall attend such meeting or meetings as shall be called for the purpose of receiving such instruction concerning their duties as shall be necessary for the proper conduct of the election. No member of any district board shall serve in any election unless he shall have received such instruction as herein provided and is fully qualified to perform the duties in connection with the election, and has received a certificate to that effect from the county board of elections; but this shall not prevent the appointment of a person as a member of the district board to fill a vacancy in an emergency, as now provided by law.

Amended by L.1945, c. 56, p. 326, § 5; L.1947, c. 78, p. 454, § 1; L.1987, c. 151, § 3, eff. June 25, 1987.

Historical and Statutory Notes

Source: L.1935, c. 302, § 10, p. 952.

Library References

Elections ⚡54.

WESTLAW Topic No. 144.

C.J.S. Elections § 54 et seq.

19:50-2. Instruction of voters before election

Until voting machines have been in use in any county or municipality for three successive general elections, the county board of elections or the superintendent of elections or the municipal clerk, as the case may be, having custody of voting machines, shall designate suitable and adequate times and places where voting machines containing sample ballots showing titles of offices to be filled, and, so far as practicable, the names of candidates to be voted for at the next election, shall be exhibited for the purpose of giving instructions in the use of voting machines to all voters who apply for the same. No voting machine to be assigned for use in an election shall be used for such instruction after having been prepared and sealed for the election. During public exhibition of any voting machine for the instruction of voters previous to an election, the counting mechanism thereof shall be concealed from view and the doors may be temporarily opened only when authorized by such county board of elections or such superintendent of elections or such municipal clerk, as the case may be.

Amended by L.1942, c. 106, p. 366, § 1; L.1945, c. 56, p. 327, § 6.

Historical and Statutory Notes

Source: L.1935, c. 302, § 11, p. 952.

Library References

Elections ⇨222.

WESTLAW Topic No. 144.

C.J.S. Elections § 203.

Texts and Treatises

26 Am Jur 2d, Elections §§238-241.

19:50-3. Instructing voters on election day; assisting blind, disabled or illiterate voters

For instructing the voters on any election day there shall, so far as practicable, be provided by the county board of elections or the superintendent of elections or the municipal clerk, as the case may be, having custody of voting machines, for each polling place a mechanically operated model of a portion of the face of the machine. Such model, if furnished, shall, during the election, be located on the district election officers' table or in some other place which the voters must pass to reach the machine, and each voter shall, before entering the voting machine booth, be instructed regarding the operation of the machine and such instruction illustrated on the model, and the voter given opportunity to personally operate the model. The voter's attention shall also be called to the diagram of the face of the machine so that the voter can become familiar with the location of the questions and the names of the officers and candidates. If any voter, before entering the voting machine booth, declares under oath, and establishes to the satisfaction of a majority of all the members of the district board that by reason of an inability to read or write, blindness or other physical disability he is unable to cast his vote without assistance, he shall have the assistance of two members of the board of opposite political faith, to be assigned by the board. Such members shall retire with such voter to the booth and assist him. The member acting as clerk of the district board shall make an entry on a disability certificate for assistance, which entry shall be on the form of an oath inserted in the front of the duplicate registry binders at each election.

In every instance when such oath is administered to a voter as herein provided, it shall state briefly what facts were sworn to and the names of the members of the board who aided such voter shall be signed on the form. Any members of the district board shall be eligible to assist any such voter, but no other person except as hereinafter provided shall be allowed to assist him. No member of the board shall reveal the name of any person for whom such voter has voted or anything that took place while he was being assisted.

Such voter, if blind, disabled or unable to read or write, may, in lieu of the assistance of the board as above provided, have assistance of some person of his own selection. Such person shall retire with such voter to the booth and assist him in voting. The name and address of such person shall be recorded as above. In such case, no other person than the one so selected by the voter shall be allowed to assist such voter. No person so selected shall reveal the name of any person for whom such voter has voted or anything that took place while he was being assisted.

The disability certificates shall be numbered serially 1 to 20. The commissioner of registration shall furnish sufficient disability certificates for assistance for each election district in his county which shall be inserted in the front of the duplicate registry binders. Amended by L.1944, c. 128, p. 353, § 1; L.1945, c. 56, p. 327, § 7; L.1957, c. 15, p. 33, § 1; L.1977, c. 304, § 1, eff. Dec. 27, 1977; L.1985, c. 20, § 2, eff. Jan. 25, 1985.

Historical and Statutory Notes

Source: L.1935, c. 302, § 19, p. 958.

Statement: Introductory statement to Senate, No. 1782-L.1985, c. 20, see § 19:31A-8.

Library References

Elections Ⓒ222.

WESTLAW Topic No. 144.

C.J.S. Elections § 203.

Notes of Decisions

Violations 1

1. Violations

Even if local election officials failed to observe in any way statutory procedure

for assistance to disabled voters, such delinquency was not a ground for invalidating those votes. Application of Bonsanto, 171 N.J.Super. 356, 409 A.2d 290 (A.D. 1979).

CHAPTER 51

NUMBER OF REGISTERED VOTERS IN A DISTRICT [REPEALED]

19:51-1. Repealed by L.1976, c. 83, § 9, eff. Jan. 1, 1977

Historical and Statutory Notes

The repealed section, amended by L.1945, c. 56, p. 329, § 8 and derived from L.1935, c. 302, § 13, p. 953, related

to the number of registered voters for the number of voting machines in a district and to certification of the location of poll-

19:51-1
Repealed

ELECTIONS

ing places in the county or municipality
and the number of voting machines need-
ed.

See, now, §§ 19:4-11, 19:4-12.

CHAPTER 52

PROCEDURE AT POLLING PLACE

Section

- 19:52-1. Opening of polls.
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Library References

Elections § 205 et seq.

WESTLAW Topic No. 144.

C.J.S. Elections § 198.

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19:52-1. Opening of polls

The district boards of each election district shall meet at the polling place three-quarters of an hour before the time set for opening of the polls at each election and shall proceed to arrange the furniture, stationery and voting machine or machines for the conduct of the election. The district boards shall then and there have the voting machine, ballots and stationery required to be delivered to them for such election by the officials charged by law with that duty. If not previously done, they shall insert in their proper place on the voting

machine the ballots containing the names of offices to be filled at such election and the names of candidates nominated therefor.

The keys to the voting machine shall be delivered to the district election officers in any manner that the county board of elections or the superintendent of elections or the municipal clerk, as the case may be, having custody of voting machines, may determine, at least three-quarters of an hour before the time set for opening the polls, in a sealed envelope, on which shall be written or printed the number and location of the voting machine, the number of the seal with which it is sealed, the number of the green seal with which the emergency ballot box is sealed, and the number registered on the protective counter or device, as reported by the custodian.

The envelope containing the keys shall not be opened until at least two members of the board who are not members of the same political party shall be present at the polling place and shall have examined the envelope to see that it has not been opened. Before opening the envelope all election officers present shall examine the number on the seal on the machine and the number registered on the protective counter, and shall ascertain if they are the same as the numbers written on the envelope; and if they are not the same, the machine must not be opened until such county board of elections or such superintendent of elections or such municipal clerk, as the case may be, after due notice of such discrepancy, shall have caused such machine to be re-examined and properly arranged by any person or persons employed or appointed pursuant to R.S. 19:48-6. If the numbers on the voting machine seal and the protective counter are found to agree with the numbers on the envelope, the district election officers shall proceed to open the doors concealing the counters, and each district election officer shall carefully examine every counter and ascertain whether or not it registers zero (000), and the same shall be subject to the inspection of official watchers.

In addition, each district election officer shall carefully examine the emergency ballot box to ascertain whether or not it is properly sealed with a numbered green seal and examine the number to ascertain if it is the same as the number written on the voting machine key envelope. If the numbers are not the same, the county board of elections, the superintendent of elections, or the municipal clerk, as the case may be, shall be notified of the discrepancy.

The machine shall remain locked against voting until the polls are formally opened and shall not be operated except by voters in voting. If any counter is found not to register zero (000) the district board shall immediately notify such county board of elections or such superintendent of elections or such municipal clerk, as the case may be, who shall, if practicable, cause such counter to be adjusted at

zero (000) by any person or persons employed or appointed pursuant to R.S.19:48-6. If it shall be impracticable for such person or persons to arrive in time to so adjust such counter before the time set for opening the polls, the district election officers shall immediately make a written statement of the designating letter and number of such counter, together with the number registered thereon, and shall sign and post same upon the wall of the polling room, where it shall remain throughout election day, and in filling out the statement of canvass, they shall subtract such number from the number registered thereon at the close of the polls.

Amended by L.1945, c. 56, p. 330, § 9; L.1992, c. 3, § 8; L.1996, c. 120, § 7, eff. Oct. 31, 1996.

Historical and Statutory Notes

L.1992, c. 3, § 30, approved April 24, 1992, provides:

"This act [L.1992, c. 3] shall take effect immediately [April 24, 1992] and shall be applicable to the first primary for the

general election or the first general election which occurs after the 60th day following the enactment of this act."

Source: L.1935, c. 302, § 15, p. 954.

Library References

Elections ⇨206.

WESTLAW Topic No. 144.

C.J.S. Elections § 198.

Texts and Treatises

26 Am Jur 2d, Elections § 227.

19:52-2. Location of voting machines

At all elections where voting machines may be used, the arrangement of the polling room shall be generally the same as is now provided for by law; the exterior of the voting machine and every part of the polling room shall be in plain view of the election officers; the voting machine shall be placed at least three feet from every wall or partition of the polling room and at least four feet from any table where any of the district election officers may be engaged or seated. The voting machine shall be so placed that the ballots on the face of the machine can be plainly seen by the election officers and the party watchers when not in use by voters. The election officers shall not themselves be, or permit any other person to be, in any position or near any position that will permit one to see or ascertain how a voter votes, or how he has voted. The district election officer attending the machine shall inspect the face of the machine after each voter has cast his vote, to see that the ballots on the face of the machine are in their proper places and have not been mutilated or defaced and that the machine has not been damaged. During elections the door or other covering of the counter compartment of the machine shall not

be unlocked or open, or the counters exposed. No person shall be permitted in or about the polling room except as now permitted by law in elections where ballots and ballot boxes are used.

Historical and Statutory Notes

Source: L.1935, c. 302, § 17, p. 956.

Notes of Decisions

Inspection of machines 1

1. Inspection of machines

Where primary elections for county committeemen of party were decided by only one vote each in favor of persons who conducted write-in campaign and names of candidates who appeared on

ballot in voting machine had been obliterated but machines had not been checked by election official as required by this section, irregularities affected contest so that a full and free expression of popular will had been subjected to interference, and certificates of election were annulled and positions declared vacant. Application of Klayman, 97 N.J.Super. 295, 235 A.2d 45 (L.1967).

19:52-2.1. Voting authorities in certain counties; form; preservation

In all counties wherein voting machines are used the county board of elections shall furnish for use in each election district at any election, a sufficient number of voting authorities in substantially the following form:

Ward	City of	District	Ward	City of	District
Election Held			Election Held		
..... day of 19...		 day of 19...		
Voting Authority			Voting Authority		
No.			No.		
<p>.....</p> <p>Signature of Voter.</p>			<p>This certificate must be handed to the election officer in charge of the voting machines in order to vote.</p> <p>County Board of Elections</p> <p>Clerk.</p>		

The voting authorities shall be numbered consecutively, be bound together in pads and shall be printed in two parts and perforated so that one part may be given to the voter who shall return the same to the district election officials in charge of the operation of the voting

machine in order that such official shall be able to place the same in consecutive order on a string or wire. The other part of the voting authority shall be signed by the voter in his own handwriting before he be permitted to vote and shall remain bound in the pad. All pads containing the portions of the voting authorities on which the names of the persons who have voted have been signed, together with that portion of the voting authority which has been placed on a wire or string shall be returned to the commissioner of registration of the county, who shall keep them for a period of at least six months.

At any primary election for the general election each voting authority shall be marked to indicate the party primary in which the voter signing the same voted and the used voting authorities shall be strung in such a manner so that those used in one party primary shall remain separate from those used in the other party primary.

L.1944, c. 213, p. 751, § 1. Amended by L.1992, c. 3, § 9.

Historical and Statutory Notes

L.1992, c. 3, § 30, approved April 24, 1992, provides:

"This act [L.1992, c. 3] shall take effect immediately [April 24, 1992] and shall be applicable to the first primary for the general election or the first general election which occurs after the 60th day following the enactment of this act."

Title of Act:

An Act concerning elections, and supplementing chapter fifty-two of Title 19 of the Revised Statutes. L.1944, c. 213, p. 751.

Library References

Elections ⇨222.

WESTLAW Topic No. 144.

C.J.S. Elections § 203.

19:52-2.2. Effective date

This act¹ shall take effect July first, one thousand nine hundred and forty-four.

L.1944, c. 213, p. 752, § 2.

¹ N.J.S.A. §§ 19:52-2.1, 19:52-2.2.

19:52-3. Time allowed a voter

Where a voter presents himself for the purpose of voting, the election officer shall follow the procedure as now required by this title regarding the eligibility of a person to vote. If such eligibility is established, one of the district election officers shall announce the name of the voter and permit him to pass to the booth of the voting machine for the purpose of casting his vote. No voter shall remain in the voting machine booth longer than two minutes, and having cast his vote the voter shall at once emerge therefrom and leave the polling room; if he shall refuse to leave after the lapse of two minutes he shall be removed by the district election officers. Such election officers shall ascertain the name and address of each voter in

the manner now provided by law before he enters the voting machine booth for the purpose of voting. No voter after having entered and emerged from the voting machine booth shall be permitted to reenter the same on any pretext whatever. Only one voter at a time shall be permitted in the voting machine booth to vote. However, a voter shall be permitted to be accompanied into the voting machine booth by a dependent child.

Amended by L.1994, c. 154, § 2, eff. Dec. 9, 1994.

Historical and Statutory Notes

Source: L.1935, c. 302, § 18, p. 957.

Library References

Texts and Treatises

26 Am Jur 2d, Elections §§238-24.

19:52-4. Blind or physically disabled voters

The provisions of this title relating to the assistance to be given to blind or physically disabled voters shall apply also where voting machines are used, and the word "booth", when used in such provisions, shall include the voting machine inclosure or curtain.

Historical and Statutory Notes

Source: L.1935, c. 302, § 20, p. 958.

19:52-5. Announcing the vote and locking the machine against voting

Immediately upon the close of the polls, the district election officers shall lock and seal the voting machine against further voting and open the counter compartment in the presence of persons who may be lawfully present at that time, giving full view of the counters. The judge of the district board, under the scrutiny of a member of such board who is not a member of the same political party as the judge, shall then in the order of the offices as their titles are arranged on the machine, read and announce in distinct tones the result as shown by the counters, and shall then read the votes recorded for each office on the irregular ballots. He shall also, in the same manner, read and announce the vote on each constitutional amendment, proposition or other question. As each vote is read and announced, it shall be recorded in two statements of canvass by two other members of such district board who are not members of the same political party, and when completed the record thereof shall be compared with the numbers on the counters of the machine. If

found to be correct, the result shall be announced by the judge of such board and the statement of canvass, after being duly certified, shall be filed as now provided by law for filing election returns. After the reading and announcing of the vote and before the doors of the counter compartment of the voting machine shall be closed, ample opportunity shall be given to any person or persons lawfully present to compare the results so announced with the counters of the machine and any necessary corrections shall then and there be made by such district board. No tally sheets nor return blanks as required by law for use in election districts where paper ballots are used shall be furnished or used in election districts where voting machines are used, but in lieu thereof there shall be furnished two copies of a statement of canvass to conform to the requirements of the make and type of voting machine or machines being used.

Amended by L.1996, c. 120, § 8, eff. Oct. 31, 1996.

Historical and Statutory Notes

Source: L.1935, c. 302, § 21, p. 959.

19:52-6. Locking machine; rechecking; cost; deposit; irregular ballots, disposition of

The district election officers shall, as soon as the count is completed and fully ascertained, as by this subtitle required, lock the counter compartment and it shall so remain for a period of 15 days, except it be opened by order of a judge of the Superior Court assigned to the county. Within such period and upon written request of any defeated candidate, or in the case where a public question is involved upon petition of any 10 qualified voters of a county or municipality using machines who voted in the election in question, the judge shall, at a cost of \$2.00 per district to the candidate or petitioners, order the machines in question opened and the registering counters rechecked against the election officers' returns. Any candidate or petitioners requesting such recheck, shall deposit with the county clerk, the amount necessary for all the districts requested. The county clerk, if it appears that an error or errors have occurred as a result of which the election is changed or the difference between the negative and affirmative of any public question is altered so as to change the results of the election, shall upon the warrant of such judge of the Superior Court, pay to such candidate or petitioners the cost of such recheck. In the event it shall appear after such recheck that the results of the election remain unchanged, the county clerk shall, upon the warrant of such judge, pay the funds so deposited into the county treasury. Such recheck shall be made under the supervision of the county election officials and in co-operation with the parties at

interest or their representatives. When irregular ballots of whatever description have been voted, the district election officers shall return all such ballots in a properly secured package indorsed "irregular ballots" and return and file such package with the municipal clerk at the same time the original statement of the results of the election made by them is filed. Such package shall be preserved for 6 months next succeeding such election, and it shall not be opened or its contents examined during that time except by the order of a judge of a court lawfully empowered to direct the same to be opened and examined. At the end of the 6 months, such packages may be opened and the ballots disposed of at the discretion of the official having charge thereof.

Amended by L.1942, c. 56, p. 293, § 1; L.1943, c. 80, p. 298, § 1; L.1953, c. 19, p. 356, § 59; L.1955, c. 260, p. 950, § 1.

Historical and Statutory Notes

Source: L.1935, c. 302, § 22, p. 960.

Library References

Elections ⇨222.

WESTLAW Topic No. 144.

C.J.S. Elections § 203.

Notes of Decisions

Costs 1

1. Costs

Statute providing for fixed statutory charge of \$2 per district for rechecks of election ballots [N.J.S.A. 19:52-6] and

statute on fees for recounts [N.J.S.A. 19:28-2] can be accommodated by making separate charges for recounts and rechecks to further legislature's objective of protecting sanctity of a ballot, a basic objective of election laws. *Reinhart v. Miller*, 208 N.J.Super. 314, 505 A.2d 247 (L.1985).

19:52-6.1. Manner of rechecking machines

Whenever a judge of the Superior Court assigned to a county enters an order for the recheck of any voting machines the county board of elections of such county shall conduct such recheck in co-operation with the county clerk, the commissioner of registration and in counties having a superintendent of election in co-operation with him, which recheck shall be commenced within 5 days of the entry of such order unless otherwise ordered by the judge and conducted in the following manner:

(1) The county board shall ascertain from the defeated candidate or from the petitioners, as the case may be, which districts shall be rechecked and the order in which they shall be rechecked, and upon receiving such information shall conduct the recheck in conformity

thereto. If more than one candidate or set of petitioners has requested a recheck and are unable to agree upon the order in which the districts are to be rechecked, such order shall be determined by the judge.

(2) The superintendent of elections in counties having superintendents of election and the county board in all other counties shall remove the padded cover, remove the impounding seal, if any, and unlock the padlock on the metal cover and where necessary raise all voting machines which are to be rechecked before the recheck is actually commenced.

(3) The superintendent of elections in counties having a superintendent of elections and the county board in all other counties shall then proceed to open the counter compartment of each voting machine as the same is rechecked, but in no event shall the counter compartment of more than 1 voting machine be opened at the same time unless it shall be agreed to do so by the county board of elections and a majority of the candidates whose nomination or election may be affected by the outcome of the recheck, and who are present or represented at the recheck, or in the case that the votes cast for or against a public question are to be rechecked then, by agreement between the county board of elections and a representative of the proponents and opponents of the public question.

(4) The county board of elections shall then check the number of votes cast for each candidate, or in the event a public question is involved for or against such public question and announce the number of votes cast for each candidate named in the order or for or against a public question as found on the registering counters and record the same on tally sheets prepared for that purpose.

(5) Whenever a recheck is to be held, the county clerk or the municipal clerk, as the case may be, shall, upon demand by the county board of elections or any candidate whose interests may be affected by the recheck, produce at the time and place of the recheck the official statements containing the results of the election as certified by the various district boards and filed with such officers. The county board of elections shall then recheck the registering counters on the machines with the official statements as returned by the various district boards.

(6) After the recheck is completed the county board in co-operation with the county clerk or municipal clerk, as the case may be, shall make a comparison of the tally sheets of the county clerk or municipal clerk showing the results of his official canvass with the tally sheets prepared by the county board in making the recheck.

(7) Whenever any discrepancies shall appear as the same are set forth on such tally sheets such discrepancies shall be noted and upon

completion of the comparison a report and certification shall be filed with the court wherein the order for the recheck originated, which report shall set forth in full just what discrepancies have been found in the county clerk's or municipal clerk's official canvass.

(8) Nothing in this chapter shall be construed to mean that a defeated candidate or in the case of a public question the petitioners cannot abandon the recheck at any time during the progress thereof and receive back the deposit made with the county clerk for the districts which remain unchecked.

(9) In the event it should appear during the course of the recheck that there has been a sufficient change in the tally of votes cast which would affect the result of the election, any candidate who appears then to be defeated, or in the event of a public question the parties in interest whose interest may be affected adversely may, within 7 days, apply to a judge of the Superior Court assigned to the county and receive an order to continue the recheck in his behalf upon the same terms and conditions under which the original recheck was held. L.1955, c. 260, p. 951, § 2.

Library References

Elections ⇨ 260.
WESTLAW Topic No. 144.
C.J.S. Elections § 237.

Texts and Treatises

26 Am Jur 2d, Elections § 253.

19:52-7. Disposition of keys

The keys of each voting machine shall be inclosed in an envelope to be supplied by the county board of elections or the superintendent of elections or the municipal clerk, as the case may be, having custody of voting machines, on which shall be written the number of the machine and the district and ward where it has been used, which envelope shall be securely sealed and indorsed by the district election officers, and shall be returned to the source from which the keys were received. The number on the seal and the number registered on the protective counter shall be written on the envelope containing the keys. All keys for any voting machine shall be kept securely by the officials having them in charge. No unauthorized person shall have in his possession any key or keys of any voting machine and all district election officers or persons intrusted with such keys for election purposes, or in the preparation of the machine therefor, shall not retain them longer than necessary to use them for such legal

purpose. All machines shall be stored by the county board of elections or the superintendent of elections or the municipal clerk, as the case may be, having custody of voting machines, as soon after the close of the election as possible, and the machines shall at all times be stored in a suitable place, which place shall be a fireproof public building in such counties or municipalities, as the case may be, as have same.

Amended by L.1945, c. 56, p. 331, § 10.

Historical and Statutory Notes

Source: L.1935, c. 302, § 23, p. 960.

Library References

Elections ¶255.

WESTLAW Topic No. 144.

C.J.S. Elections § 234.

Notes of Decisions

Storage of machines 1

1. Storage of machines

In proceeding for an order directing superintendent of elections to take voting machines into his official custody forthwith upon the close of the polls and to immediately store them in a suitable warehouse, no violation of this section requiring machines to be stored by superintendent of elections as soon after the close of election as possible, was established, in view of affidavits showing that

superintendent had provided police protection of machines and was returning them to warehouse with due diligence, more than 200 having been returned the night of election. *Pindar v. Miele*, 16 N.J.Super. 227, 84 A.2d 490 (L.1951).

Requirement that voting machines be stored by superintendent of elections as soon after close of election as possible, is complied with if the machines are returned to storage warehouse with diligence and without unnecessary and unreasonable delay. *Pindar v. Miele*, 16 N.J.Super. 227, 84 A.2d 490 (L.1951).

CHAPTER 53

PENALTIES

Section

19:53-1. Penalties.

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19:53-1. Penalties

Any unauthorized person found in possession of any such voting machine in use or to be used in any election, or keys thereof, shall be guilty of a misdemeanor. Any person willfully tampering or attempting to tamper with, disarrange, deface or impair in any manner whatsoever, or destroy any such voting machine while the same is in use at any election, or who shall, after such machine is locked in order to preserve the registration or record of any election made by the same, tamper or attempt to tamper with any such voting machine, shall be guilty of a high misdemeanor.

Historical and Statutory Notes

Source: L.1935, c. 302, § 24, p. 961.

Library References

Elections ⇨323.

WESTLAW Topic No. 144.

C.J.S. Elections § 355.

Texts and Treatises

26 Am Jur 2d, Elections § 280.

CHAPTER 53A

ELECTRONIC VOTING SYSTEMS

Section

- 19:53A-1. Definitions.
- 19:53A-2. Counties; adoption, acquisition, lease or abandonment of approved systems; use in elections; application of act.
- 19:53A-3. Requirements.
- 19:53A-4. Approval.
- 19:53A-5. Ballots; labels, form; samples; write-ins.
- 19:53A-6. Preparation for elections; ballot cards; secrecy while marking ballot.
- 19:53A-7. Conduct of election.
- 19:53A-8. Count of ballots; test of automatic tabulating equipment; return; manual count.
- 19:53A-9. Absentee votes.
- 19:53A-10. Effect of overvote or misvote.
- 19:53A-11. Instruction of voters; model of device.
- 19:53A-12. Challengers.
- 19:53A-13. Application of Title 19.
- 19:53A-14. Recount.
- 19:53A-15. Tampering with or willfully injuring records or equipment or interference with conduct of election; penalty; application of penal and election laws.

Library References

Elections ⇨ 222.

WESTLAW Topic No. 144.

C.J.S. Elections § 203.

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19:53A-1. Definitions

As used in this act, unless otherwise specified:

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

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

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

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

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

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

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

L.1973, c. 82, § 1, eff. April 12, 1973.

Historical and Statutory Notes

Title of Act:

An Act authorizing the use of electronic voting systems and supplementing Title 19 of the Revised Statutes. L.1973, c. 82.

Library References

Elections ¶222.

C.J.S. Elections § 203.

WESTLAW Topic No. 144.

Words and Phrases (Perm.Ed.)

19:53A-2. Counties; adoption, acquisition, lease or abandonment of approved systems; use in elections; application of act

a. The board of chosen freeholders of any county may adopt, acquire by purchase, lease, or otherwise, or abandon any electronic voting system or mechanical system authorized herein which has been approved for use in the State, in any election or primary or combination thereof, and may use such system in all or a part of the districts within its boundaries, or in combination with paper ballots. The county authorities, on the adoption and acquisition of an elec-

tronic voting system, shall provide for the payment therefor in such manner as they deem for the best interest of the locality, in such manner as may be provided by law.

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

L.1973, c. 82, § 2, eff. April 12, 1973.

19:53A-3. Requirements

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

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

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

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

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

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

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

g. Be suitably designed for the purpose used, of durable construction, and may be used safely, efficiently, and accurately in the conduct of elections and counting ballots;

h. When properly operated, record correctly and count accurately every vote cast, including all overvotes or undervotes and all affirmative votes or negative votes on all public questions or referenda.

L.1973, c. 82, § 3, eff. April 12, 1973.

American Law Reports

Validity of write-in vote where candidate's surname only is written in on ballot, 86 ALR2d 1025.

Library References

Texts and Treatises

26 Am Jur 2d, Elections §§202, 205.

19:53A-4. Approval

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

L.1973, c. 82, § 4, eff. April 12, 1973.

¹ N.J.S.A. § 19:53A-3.

19:53A-5. Ballots; labels, form; samples; write-ins

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

b. The titles of offices and the names of candidates may be arranged in vertical columns or in a series of separate pages. The office title with a statement of the number of candidates to be voted for shall be printed above or at the side of the names of the candidates for that office. The names of candidates shall be printed in the order provided by law, and in general elections the party designation of each candidate, which may be abbreviated, and a slogan not to exceed six words may be printed following his name. In case there are more candidates for an office than can be printed in one column or on one ballot page, the ballot label shall be clearly marked that the list of candidates is continued on the following column or page, and so far as possible, the same number of names shall be printed on each column or page. Arrows may be used to indicate the place to vote for each candidate and on each measure.

c. The different parts of the ballot, such as partisan, nonpartisan, and measures, shall be prominently indicated on the ballot labels,

and, if practicable, each part shall be placed on a separate page or pages. In the event that two or more elections are held on the same day, the ballot labels shall be clearly marked to indicate the ballot for each election, and, if practical, the ballot labels for each election shall be placed upon separate pages, and labels of a different color or tint may be used for each election.

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

e. In elections in which voters are authorized to vote for persons whose names do not appear on the ballot, at the discretion of the county board of elections either (1) a separate write-in ballot, which may be in the form of a paper ballot, card or envelope in which the voter places his ballot card after voting, shall be provided to permit voters to write in the title of the office and the name of the person or persons for whom he wishes to vote, or to attach a sticker of suitable size on which is printed the title of the office and the name of the person or persons for whom he wishes to vote; or (2) provisions shall be made for the voter to write the name of the person or persons for whom he wishes to vote on the ballot card in the location designated and to punch the ballot card in the location provided.

L.1973, c. 82, § 5, eff. April 12, 1973. Amended by L.1975, c. 316, § 4, eff. Feb. 19, 1976.

Notes of Decisions

Write-ins 1

1. Write-ins

Validly cast write-in votes must remain unrestricted by technical restraints of election laws. *Clemency v. Beech*, 306 N.J.Super. 244, 703 A.2d 399 (L.1997).

Ballots for township council election on which voters had written in name of write-in candidate without punching out hole next to write-in candidate's name were not valid votes for write-in candidate under statute governing electronic tabulation of ballots; statute stated that voter must "punch the ballot card in the location provided," and requirement that voter both write candidate's name and

punch hole in card necessarily hinders election fraud, protects integrity of ballot, eliminates need for visual inspection of every ballot, and permits more efficient tabulation of electronic ballots. *Matter of Municipal Election Held on May 10, 1994, for Three Positions on Sparta Tp. Council*, 139 N.J. 553, 656 A.2d 5 (1995).

School board election irregularities thwarted will of people requiring new election where there was confusion among voters about write-in process, voters were provided with incorrect instructions by poll workers, and such circumstances resulted in invalidation of 97 votes. *Matter of Annual School Bd. Election Held in Tp. of Hamilton, Atlantic County*, 92 N.J.A.R.2d (EDU) 476 (1992).

19:53A-6. Preparation for elections; ballot cards; secrecy while marking ballot

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

b. Ballot cards shall be of the size, design and stock suitable for processing by automatic data processing machines. Each ballot card shall have an attached numbered perforated stub, which shall be removed by an election officer before it is deposited in the ballot box. In primary elections the ballot cards of each political party shall be distinctly marked or shall be of a different color or tint so that the ballot cards of each political party are readily distinguishable.

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

L.1973, c. 82, § 6, eff. April 12, 1973.

Library References**Texts and Treatises**

26 Am Jur 2d, Elections § 236.

19:53A-7. Conduct of election

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

b. Each voter requesting assistance shall be instructed how to operate the voting device before he enters the voting booth. If he needs additional instruction after entering the voting booth and requests assistance, two members of the district board who are not members of the same political party may if necessary enter the booth and give him additional instructions.

c. The district election official attending the voting machine shall inspect the face of the machine and the ballot at least once per hour to see that the face of the machine and the ballot are in their proper place and that neither has been mutilated, defaced, tampered with or changed and that the machine has not been changed.

d. After the voter has marked his ballot cards, he shall place the ballot card inside the envelope provided for this purpose and return it to the election officer, who shall remove the stub, place it on a file string, and deposit the envelope with the ballot card inside in the ballot box. No ballot card from which the stub has been detached shall be accepted by the election official in charge of the ballot box, but it shall be marked "Spoiled" and placed with the spoiled ballot cards.

e. Any voter who spoils his ballot card may return it enclosed in the envelope and secure another. The word "Spoiled" shall be written across the face of the envelope, which shall be placed on the same string with the stubs.

f. As soon as the polls have been closed and the last qualified voter has voted, all unused ballot cards shall be placed in a container and sealed for return to the board of elections. The ballot box shall be opened and any write-in votes counted, unless these votes are to be counted by duly appointed bipartisan tabulating teams at the counting center. Before write-in votes are counted they shall be compared with votes cast on the ballot card for the same office. If the voter has cast more votes for an office than he is entitled to vote for, the vote for that office shall be declared null and void and that vote shall not be counted for that office. Votes cast for duly nominated candidates on the ballot card will not be voided because of an invalid write-in vote, but if otherwise valid shall be counted. The voted ballot cards shall next be placed in the ballot card container for delivery to the counting center, and the voting devices shall be placed in their containers for returning to the county board of elections.

g. The district board election officers shall prepare a report of the number of voters who have voted, as indicated by the poll list, the number of write-in votes and any other votes counted by the district board and the number of spoiled ballots, and shall place the original copy of this report in the ballot card container for delivery to the counting center, which thereupon shall be sealed so that no additional ballot cards may be deposited or removed. Such container shall be durably constructed so as to be resistant to fire, water and tampering. The duplicate copy of said report shall be returned to the county election board with other records. Two district election board officers who are not members of the same political party shall forthwith deliver the ballot card container to the counting center or other place designated by the county board. The county board may, in its discretion, direct that ballots be delivered to one or more collection points from which points the ballots shall be transported collectively to the counting center by two duly appointed deputies who are not members of the same political party. The

district board shall receive a receipt before releasing the ballots to said deputies.

L.1973, c. 82, § 7, eff. April 12, 1973. Amended by L.1975, c. 316, § 5, eff. Feb. 19, 1976; L.1996, c. 120, § 9, eff. Oct. 31, 1996.

Library References

Forms

9 Am Jur Pl & Pr Forms, Rev, Elections, Forms 71 et seq.

Texts and Treatises

26 Am Jur 2d, Elections §225 et seq.

Notes of Decisions

Multiple votes 1

1. Multiple votes

Voters who punched hole on ballot next to mayoral candidate's name on printed portion of ballot and also wrote in and punched in name of same candidate for same office on ballot's write-in section

did not cast more than one vote for same office, and thus were still entitled to have their votes counted under statute governing conduct of election by electronic ballot. Matter of General Election Held in the Tp. of Monroe, Gloucester County, N.J., on Tuesday, Nov. 6, 1990., 245 N.J.Super. 70, 583 A.2d 1154 (A.D.1990), certification denied 127 N.J. 325, 604 A.2d 600.

19:53A-8. Count of ballots; test of automatic tabulating equipment; return; manual count

a. Prior to the start of the count of the ballots, each county board of elections shall have the automatic tabulating equipment tested to ascertain that it will accurately count the votes cast for all offices and on all measures. Public notice of the time and place of the test shall be given at least 48 hours prior thereto by publication once in three or more daily or weekly newspapers published in the county or jurisdiction where such equipment is used, if a newspaper is published therein, otherwise in a newspaper of general circulation therein; said newspapers shall be selected so as to give the widest possible notice to the voters of said county and one of said newspapers shall be the newspaper or one of the newspapers in which legal notices of the county are required to be published. The test shall be conducted by processing a preaudited group of ballot cards so punched as to record a predetermined number of valid votes for each candidate and on each measure, and shall include for each office one or more ballots which have votes in excess of the number allowed by law in order to test the ability of the automatic tabulating equipment to reject such votes. In such test a different number of valid votes shall be assigned to each candidate for an office, and for and against each

measure. If any error is detected, the cause therefor shall be ascertained and corrected and an errorless count shall be made and certified to by the county board of elections before the count is started. The tabulating equipment shall pass the same test at the conclusion of the count before the election returns are approved as official. On completion of the count, the programs, test materials, and ballot cards arranged by districts shall be sealed and retained as provided for paper ballots.

b. All proceedings at the counting center shall be under the direction of the county board of elections or persons designated by it; there shall always be two persons in charge who shall not be members of the same political party ; and all proceedings shall be conducted under the observation of the public, but no persons except those authorized for the purpose shall touch any ballot card or return. All persons who are engaged in processing and counting of the ballots shall be deputized and take an oath that they will faithfully perform their assigned duties. If any ballot card is damaged or defective so that it cannot properly be counted by the automatic tabulating equipment, a true duplicate copy shall be made and substituted for the damaged ballot card. All duplicate ballot cards shall be clearly labeled "duplicate," and shall bear a serial number which shall be recorded on the damaged or defective ballot card. The damaged or defective ballot card as well as the "duplicate" shall be preserved with the other ballot cards. During the count the election officer or board in charge may from time to time release unofficial returns. Upon completion of the count the official returns shall be open to the public.

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

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

L.1973, c. 82, § 8, eff. April 12, 1973. Amended by L.1975, c. 316, § 6, eff. Feb. 19, 1976; L.1996, c. 120, § 10, eff. Oct. 31, 1996.

Notes of Decisions

Electronic counting devices 1
Manual counts 2

1. Electronic counting devices

Procedures for use of electronic device to count absentee ballots did not comply with statutory requirements for use of such equipment. *Kelly v. Burlington County Bd. of Elections*, 207 N.J.Super. 335, 504 A.2d 153 (L.1985).

2. Manual counts

Manual count of absentee ballots was required pursuant to N.J.S.A. 19:53A-8,

subd. d where existing procedures for use of electronic counting device did not comply with statutory requirements, county board of elections was deadlocked, and compliance with statutory requirements within short time before election could only be accomplished, if at all, on an inappropriate emergency basis. *Kelly v. Burlington County Bd. of Elections*, 207 N.J.Super. 335, 504 A.2d 153 (L.1985).

19:53A-9. Absentee votes

Absentee votes may be cast on paper ballots or ballot cards, or both methods may be used. Such ballots may be counted by automatic tabulating equipment or by special canvassing boards appointed by and under the direction of the county board of elections. A true copy of absentee paper ballots may be made on ballot cards, which after being duly verified, shall forthwith be counted in the same manner as other ballot cards. Such paper ballots and ballot cards shall be forthwith marked with corresponding numbers, which numbering shall be done in such manner as not to identify any voter and such marking shall not be considered to be a marked ballot. Such paper ballots and corresponding ballot cards shall both be preserved in the same manner as other ballot cards are required to be preserved hereunder.

L.1973, c. 82, § 9, eff. April 12, 1973.

American Law Reports

Validity of absentee voters' laws, 97
 ALR2d 218.

Library References

Elections ¶216.1.
 WESTLAW Topic No. 144.
 C.J.S. Elections § 210.

Texts and Treatises

26 Am Jur 2d, Elections §§243 to 252.

19:53A-10. Effect of overvote or misvote

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

L.1973, c. 82, § 10, eff. April 12, 1973.

Library References

Elections ⇨186(4).

WESTLAW Topic No. 144.

C.J.S. Elections §§ 174, 182.

19:53A-11. Instruction of voters; model of device

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

L.1973, c. 82, § 11, eff. April 12, 1973.

Library References

Elections ⇨222.

WESTLAW Topic No. 144.

C.J.S. Elections § 203.

Notes of Decisions**Defects and irregularities 1****1. Defects and irregularities**

School board election irregularities thwarted will of people requiring new election where there was confusion

among voters about write-in process, voters were provided with incorrect instructions by poll workers, and such circumstances resulted in invalidation of 97 votes. Matter of Annual School Bd. Election Held in Tp. of Hamilton, Atlantic County, 92 N.J.A.R.2d (EDU) 476 (1992).

19:53A-12. Challengers

Challengers may be appointed in the same manner as provided in R.S. 19:7-1 et seq., for each counting center set up in each county

and said challengers shall have the right to be present and represent the candidates or party appointing them during any time the counting center is open or operating whether for testing of equipment, programs, ballot cards or for counting the ballot cards or for any other purpose.

L.1973, c. 82, § 12, eff. April 12, 1973.

Library References

Elections Ⓒ210.

WESTLAW Topic No. 144.

C.J.S. Elections § 200.

Texts and Treatises

26 Am Jur 2d, Elections §316 et seq.

19:53A-13. Application of Title 19

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

L.1973, c. 82, § 13, eff. April 12, 1973.

19:53A-14. Recount

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

L.1973, c. 82, § 14, eff. April 12, 1973.

Library References

Elections Ⓒ245, 260.

WESTLAW Topic No. 144.

C.J.S. Elections §§ 228, 237.

Texts and Treatises

26 Am Jur 2d, Elections §§355, 356.

19:53A-15. Tampering with or willfully injuring records or equipment or interference with conduct of election; penalty; application of penal and election laws

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

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

L.1973, c. 82, § 15, eff. April 12, 1973.

Library References

Elections ⇨309.

WESTLAW Topic No. 144.

C.J.S. Elections §§ 324, 334.

Texts and Treatises

26 Am Jur 2d, Elections § 376.

CHAPTER 53B

EMERGENCY BALLOTS

Section

- 19:53B-1. Emergency ballot box; contents; form and number of ballots.
- 19:53B-2. Distribution and use of emergency ballots; location; provision of pencils; instructions on use.
- 19:53B-3. Failure of voting machine; use of emergency ballots; additional ballots.
- 19:53B-4. Procedure for use of emergency ballot box.
- 19:53B-5. Voting procedure.
- 19:53B-6. Preparation of emergency ballot by voter in private; violations.
- 19:53B-7. Marking of emergency ballot by voter.
- 19:53B-8. Write-in candidates.
- 19:53B-9. Emergency ballots spoiled or unfit for use.
- 19:53B-10. Placement of completed emergency ballot in sealed envelope; custody.
- 19:53B-11. Deposit of emergency ballot in box.
- 19:53B-12. Right to challenge voter; duration.
- 19:53B-13. Canvassing procedure.
- 19:53B-14. Void or invalid emergency ballots.
- 19:53B-15. Processing of void or invalid emergency ballots.
- 19:53B-16. Decisions of district board deemed final; dissents.
- 19:53B-17. Counting of emergency ballots.
- 19:53B-18. Tallying of votes.
- 19:53B-19. Recording of emergency ballot tally.
- 19:53B-20. Custody and preservation of emergency ballots.

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19:53B-1. Emergency ballot box; contents; form and number of ballots

a. The county clerk or the municipal clerk, in the case of a municipal election, shall prepare an emergency ballot box packet

which shall include the appropriate number of emergency ballots, the appropriate number of pre-punched single-hole white envelopes, and two tally sheets, each with a carbon duplicate copy attached. The custodian of the voting machines shall prepare and place in each emergency ballot box an emergency ballot box packet and an envelope containing a numbered white seal and a numbered red seal. The envelope shall contain, on its face, the instructions for the use of the seals, the number and the election district location of the voting machine to which the ballot box is attached, and the identification numbers of the white and red seals that were placed in the envelope. The emergency ballot box shall be sealed with a numbered green security seal before being shipped to each election district as provided in R.S.19:48-6.

b. For the primary for the general election, the emergency ballots shall be printed on paper of a color that matches the color of the voting authority, which shall indicate the party primary of the voter. The emergency ballots shall be uniform in size, quality and type and of a thickness that the printing thereon cannot be distinguished from the back of the paper, and without any mark, device or figure on the front or back other than as provided in this amendatory and supplementary act, P.L.1992, c. 3 (C. 19:53B-1 et al.).

The clerk of the county or municipality having custody of the emergency ballots shall prepare each emergency ballot package with a minimum of 30 emergency ballots for each political party. If the clerk determines, based upon the number of registered voters with party affiliations, that an election district shall require more than 30 emergency ballots per party primary, additional emergency ballots shall be delivered to that election district.

c. For the general election the emergency ballots shall be printed on paper of the color of the voting authority. The emergency ballots shall be uniform in size, quality and type and of a thickness that the printing thereon cannot be distinguished from the back of the paper, and without any mark, device or figure on the front or back other than as provided in this amendatory and supplementary act.

The clerk of the county or municipality shall prepare each emergency ballot package with a minimum of 30 emergency ballots. If the clerk determines that an election district shall require more than 30 emergency ballots based on the number of registered voters, additional emergency ballots shall be delivered to that election district.

L.1992, c. 3, § 10.

Historical and Statutory Notes

L.1992, c. 3, § 30, approved April 24, 1992, provides:

"This act [L.1992, c. 3] shall take effect immediately [April 24, 1992] and shall be applicable to the first primary for the general election or the first general election which occurs after the 60th day following the enactment of this act."

Title of Act:

An Act concerning the use of emergency ballots in counties that use electronic or mechanical voting machines, amending various parts of the statutory law and supplementing Subtitle 15 of Title 19 of the Revised Statutes.

Library References

Elections ☞ 166, 217.

WESTLAW Topic No. 144.

C.J.S. Elections §§ 156, 194, 204.

Texts and Treatises

26 Am Jur 2d, Elect § 237.

19:53B-2. Distribution and use of emergency ballots; location; provision of pencils; instructions on use

a. The board shall not permit other emergency ballots to be used at an election except the emergency ballots which are provided for by this amendatory and supplementary act, P.L.1992, c. 3 (C. 19:53B-1 et al.). It shall confine the distribution and use of the emergency ballots to the polling room and election district in the manner herein directed, and shall not distribute emergency ballots, other than official sample emergency ballots as herein provided, outside the polling place or election district.

b. The board shall not keep emergency ballots or pre-punched single-hole plain white envelopes to enclose emergency ballots cast during the election in a polling booth or, if a polling booth is unusable, in the area designated for voters to mark the emergency ballot.

c. The board shall cause each booth or voting area in a polling place to be kept provided with sufficient lead pencils to enable the voters to mark their emergency ballots.

d. The county board of elections shall prepare complete written instructions regarding the procedures for the use of the emergency ballot boxes for each district board member. The board members shall be orally instructed on the procedures for the use of emergency ballots at the training classes held for the board members.

L.1992, c. 3, § 11.

Historical and Statutory Notes

L.1992, c. 3, § 30, approved April 24, 1992, provides:

"This act [L.1992, c. 3] shall take effect immediately [April 24, 1992] and shall be

applicable to the first primary for the general election or the first general election which occurs after the 60th day following the enactment of this act."

Library References

Elections ⇨216, 217.

WESTLAW Topic No. 144.

C.J.S. Elections §§ 194, 204.

19:53B-3. Failure of voting machine; use of emergency ballots; additional ballots

a. If for any cause a voting machine fails to operate, the district board shall use the supply of emergency ballots that are on hand at the opening of the polls. The mode and manner of voting the emergency ballots shall in all respects conform as nearly as possible to the mode and manner of voting herein described.

b. If for any reason emergency ballots shall not be ready or available for distribution at any polling place, or if the supply of emergency ballots shall be exhausted before the polls are closed, the district board member in charge shall notify the appropriate authority that additional ballots shall be required.

L.1992, c. 3, § 12.

Historical and Statutory Notes

L.1992, c. 3, § 30, approved April 24, 1992, provides:

"This act [L.1992, c. 3] shall take effect immediately [April 24, 1992] and shall be

applicable to the first primary for the general election or the first general election which occurs after the 60th day following the enactment of this act."

Library References

Elections ⇨216, 219, 222.

WESTLAW Topic No. 144.

C.J.S. Elections § 203 et seq.

19:53B-4. Procedure for use of emergency ballot box

If it becomes necessary to use the emergency ballot box, and if the numbers on the green seal and the voting machine key envelope were identical when previously examined as provided in R.S. 19:52-1, the judge of the district board shall remove the emergency ballots and the envelope containing the numbered white and red seals from the box; shall open the envelope, remove the seals, compare the numbers on the seals with those on the face of the envelope, and note on the envelope any discrepancies; shall place the red seal back in the

envelope and return the envelope to the ballot box; and shall, in an open and public manner, exhibit the emergency ballot box so that those present may see that the box is now empty except for the envelope containing the numbered red seal. The judge shall close and re-seal the emergency ballot box with the numbered white seal removed from the envelope in the box, leaving open the aperture in the lid thereof.

If the numbers on the green seal and the voting machine key envelope were not identical when previously examined as provided in R.S. 19:52-1 but the appropriate county board of elections, superintendent of elections, or municipal clerk, as the case may be, has authorized the use of the emergency ballot box, the emergency ballot box may be opened and handled in the manner prescribed above. If the appropriate county board, superintendent, or municipal clerk, as the case may be, has not yet authorized the use of the emergency ballot box, the appropriate county board, superintendent, or municipal clerk shall again be notified and the emergency ballot box shall not be opened until that county board, superintendent, or municipal clerk authorizes the use of the box.

L.1992, c. 3, § 13.

Historical and Statutory Notes

L.1992, c. 3, § 30, approved April 24, 1992, provides:

"This act [L.1992, c. 3] shall take effect immediately [April 24, 1992] and shall be

applicable to the first primary for the general election or the first general election which occurs after the 60th day following the enactment of this act."

Library References

Elections ¶217, 222.

WESTLAW Topic No. 144.

C.J.S. Elections §§ 194, 203, 204.

19:53B-5. Voting procedure

After the district board ascertains that a voter is properly registered and qualified to vote, the member of the board charged with maintaining the signature copy register shall require the voter to sign the signature copy register and shall have the voter sign the part of the two-part perforated voting authority that shall remain bound in the pad. The member shall record the voting authority number in the proper column of the signature copy register, except that in a primary for the general election, the member shall also record the party primary in which the voter voted.

In the proper columns, the voter shall sign the reverse side of the signature copy register and the board member shall initial the signature of the voter.

After the voter signs the voting authority, the member of the board in charge of the signature copy register shall give the voter the unsigned portion of the two-part voting authority. The voter shall return that portion to the district election board member in charge of the operation of the voting machine at that time. The member shall place each authority in consecutive order on a string or wire prior to furnishing a voter with an emergency ballot and a plain white single-hole punched envelope.

No emergency ballot shall be handed to a voter until there is a polling booth ready for occupancy or, if a booth is unusable, the area designated for voters to mark the emergency ballot is ready. If a voting area is used, the voter shall be provided with a privacy screen at the same time that the emergency ballot is provided.

The inspector shall instruct the voter how to place the voted emergency ballot into the pre-punched single-hole plain white envelope.

L.1992, c. 3, § 14.

Historical and Statutory Notes

L.1992, c. 3, § 30, approved April 24, 1992, provides:

"This act [L.1992, c. 3] shall take effect immediately [April 24, 1992] and shall be

applicable to the first primary for the general election or the first general election which occurs after the 60th day following the enactment of this act."

Library References

Elections ¶106, 217, 219 to 222.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 39, 46, 194, 203 et seq.

19:53B-6. Preparation of emergency ballot by voter in private; violations

Every voter to whom an emergency ballot is given shall retire into the polling booth or to the designated voting area, as the case may be. Not more than one voter shall be permitted to enter or be in the same booth or voting area at one time. The voter shall prepare the emergency ballot in the booth or the voting area screened from the observation of others.

Any person or voter who shall violate the provisions of this section shall be guilty of a crime of the fourth degree.

L.1992, c. 3, § 15.

Historical and Statutory Notes

L.1992, c. 3, § 30, approved April 24, 1992, provides:

"This act [L.1992, c. 3] shall take effect immediately [April 24, 1992] and shall be applicable to the first primary for the

general election or the first general election which occurs after the 60th day following the enactment of this act."

Library References

Elections Ⓒ219.
WESTLAW Topic No. 144.
C.J.S. Elections § 206.

19:53B-7. Marking of emergency ballot by voter

To vote for a candidate whose name is printed in any column, the voter shall mark a cross x, plus + or check / in the square provided for the name of each candidate in any column for whom the voter chooses to vote.

To vote upon the public questions printed on the emergency ballot, the voter shall indicate the choice of the voter by marking a cross x, plus + or check / in the square provided for either the word "Yes" or "No" of each public question.

L.1992, c. 3, § 16.

Historical and Statutory Notes

L.1992, c. 3, § 30, approved April 24, 1992, provides:

"This act [L.1992, c. 3] shall take effect immediately [April 24, 1992] and shall be

applicable to the first primary for the general election or the first general election which occurs after the 60th day following the enactment of this act."

Library References

Elections Ⓒ219.
WESTLAW Topic No. 144.
C.J.S. Elections § 206.

19:53B-8. Write-in candidates

Nothing in this amendatory and supplementary act, P.L.1992, c. 3 (C. 19:53B-1 et al.) shall prevent any voter from writing or pasting within the proper title of office in the column designated personal choice, the name or names of any person or persons for whom the voter desires to vote whose name or names are not printed upon the emergency ballot for the same office. The voter shall mark a cross x, plus + or check / in the square provided for such name. The writing shall be in ink or pencil.

L.1992, c. 3, § 17. Amended by L.1994, c. 77, § 11, eff. Jan. 1, 1995.

Historical and Statutory Notes

L.1992, c. 3, § 30, approved April 24, 1992, provides:

"This act [L.1992, c. 3] shall take effect immediately [April 24, 1992] and shall be

applicable to the first primary for the general election or the first general election which occurs after the 60th day following the enactment of this act."

Library References

Elections \S 159.
WESTLAW Topic No. 144.
C.J.S. Elections $\S\S$ 90, 130.

19:53B-9. Emergency ballots spoiled or unfit for use

If any voter to whom any official emergency ballot has been handed spoils or renders the same unfit for use, the voter shall return the emergency ballot and the pre-punched single-hole plain white envelope to a district board member. The voter shall be furnished with another emergency ballot and envelope. No more than two official emergency ballots shall be furnished to a voter, except at the discretion of the board members.

The district board members shall preserve each spoiled emergency ballot and place that ballot in the pre-punched single-hole plain white envelope and the district board member shall write "SPOILED" across both the front and back of the envelope. On the "SPOILED" white envelope each district board member shall sign and date the signature of the member. Immediately thereafter, the "SPOILED" white envelope shall be sealed and placed in the emergency ballot box.

L.1992, c. 3, \S 18.

Historical and Statutory Notes

L.1992, c. 3, \S 30, approved April 24, 1992, provides:

"This act [L.1992, c. 3] shall take effect immediately [April 24, 1992] and shall be

applicable to the first primary for the general election or the first general election which occurs after the 60th day following the enactment of this act."

Library References

Elections $\S\S$ 219, 255.
WESTLAW Topic No. 144.
C.J.S. Elections $\S\S$ 206, 234.

19:53B-10. Placement of completed emergency ballot in sealed envelope; custody

After voting the emergency ballot and before leaving the polling booth or the designated voting area, as the case may be, the voter shall place the voted emergency ballot in the pre-punched single-hole plain white envelope. The voter shall seal the envelope and shall retain custody of the envelope until the member of the board having charge of the voting machine at that time is ready to accept the envelope.

L.1992, c. 3, \S 19.

Historical and Statutory Notes

L.1992, c. 3, § 30, approved April 24, 1992, provides:

"This act [L.1992, c. 3] shall take effect immediately [April 24, 1992] and shall be

applicable to the first primary for the general election or the first general election which occurs after the 60th day following the enactment of this act."

Library References

Elections ⇨219, 222.

WESTLAW Topic No. 144.

C.J.S. Elections §§ 203, 206.

19:53B-11. Deposit of emergency ballot in box

The voter shall hand the sealed envelope to the member of the election board having charge of the voting machine. The member shall keep the sealed white envelope in full view of the voter, the other district board members and all other persons present until it is deposited in the ballot box. The voter may also take hold of the envelope, with that member of the board, until the emergency ballot is deposited into the emergency ballot box.

L.1992, c. 3, § 20.

Historical and Statutory Notes

L.1992, c. 3, § 30, approved April 24, 1992, provides:

"This act [L.1992, c. 3] shall take effect immediately [April 24, 1992] and shall be

applicable to the first primary for the general election or the first general election which occurs after the 60th day following the enactment of this act."

Library References

Elections ⇨221.

WESTLAW Topic No. 144.

C.J.S. Elections § 207.

19:53B-12. Right to challenge voter; duration

The right to challenge a voter who uses the emergency ballot shall exist until the emergency ballot is deposited in the emergency ballot box. If the right of a person to vote is challenged, the same procedures shall be used as prescribed when the right of a person to cast a vote on an electronic or mechanical voting machine is challenged.

L.1992, c. 3, § 21.

Historical and Statutory Notes

L.1992, c. 3, § 30, approved April 24, 1992, provides:

"This act [L.1992, c. 3] shall take effect immediately [April 24, 1992] and shall be

applicable to the first primary for the general election or the first general elec-

tion which occurs after the 60th day following the enactment of this act."

Library References

Elections ⇨223.

WESTLAW Topic No. 144.

C.J.S. Elections § 209.

19:53B-13. Canvassing procedure

In canvassing the emergency ballots, the district board shall count the votes as follows:

a. If proper marks are made in the squares provided for the names of any candidates in any column and the total number voted for, for each office, does not exceed the number of candidates to be elected to each office, a vote shall be counted for each candidate so marked.

b. If proper marks are made in the squares provided for any names of any candidates in any column, a vote shall be counted for each candidate so marked; but if the district board canvassing the emergency ballots, or the county board, judge of the Superior Court or other judge or officer conducting a recount thereof, shall be satisfied that the placing of the marks to the left and right of the names was intended to identify or distinguish the emergency ballot, then the emergency ballot shall not be counted and shall be declared null and void.

c. If no marks are made in the squares provided for the names of any candidates in any column, but are made to the right of the names, a vote shall not be counted for the candidates so marked, but shall be counted for the other candidates as are properly marked; but if the district board canvassing the emergency ballot, or the county board, judge of the Superior Court or other judge or officer conducting a recount thereof, shall be satisfied that the placing of the marks to the right of the names was intended to identify or distinguish the emergency ballot, the emergency ballot shall be declared null and void.

d. Where the name of any person is written in the column designated personal choice, and a cross x, plus + or check / appears in the square provided for the name, it shall be counted as a vote for that person.

e. In the case of any public question printed on the emergency ballot where a proper mark is made in the square provided for the word "Yes," it shall be counted as a vote in favor of that public question. If a proper mark is made in the square provided for the word "No," it shall be counted as a vote against same. If no mark is

made in the square provided for either the word "Yes" or "No," it shall not be counted as a vote either in favor of or against the public question. If a mark is made in each of the squares provided for both the words "Yes" and "No," it shall not be counted either as a vote in favor of or against the public question nor shall it invalidate the emergency ballot.

f. If a voter marks more names than there are persons to be elected to an office, or writes the name of any person in the column designated personal choice, whose name is printed upon the emergency ballot as a candidate under the same title of office, or the choice of the voter cannot be determined, that emergency ballot shall not be counted for that office, but shall be counted for those other offices as are properly marked.

g. If the mark made for any candidate or public question is substantially a cross ×, plus + or check √ and is substantially within the square, it shall be counted for the candidate or for or against the public question, as the case may be. No vote shall be counted for any candidate in any column or for or against any public question unless the mark made is substantially a cross ×, plus + or check √ and is substantially within the square.

L.1992, c. 3, § 22.

Historical and Statutory Notes

L.1992, c. 3, § 30, approved April 24, 1992, provides:

"This act [L.1992, c. 3] shall take effect immediately [April 24, 1992] and shall be

applicable to the first primary for the general election or the first general election which occurs after the 60th day following the enactment of this act."

Library References

Elections ⇨256.

WESTLAW Topic No. 144.

C.J.S. Elections § 235.

19:53B-14. Void or invalid emergency ballots

In counting the emergency ballots, the board shall deem void all emergency ballots which are wholly blank, or on which more names have been marked for every office than there are persons to be elected to the office, and on which both "Yes" and "No" have been marked upon every public question.

No emergency ballot which shall have, either on its face or back, any mark, sign, erasure, designation or device whatsoever, other than that which is permitted by this amendatory and supplementary act, P.L.1992, c. 3 (C. 19:53B-1 et al.), by which the emergency ballot shall be distinguished from another emergency ballot shall be de-

clared void unless the district board canvassing those emergency ballots, or the county board, judge of the Superior Court or other judge or officer conducting the recount thereof, shall be satisfied that the placing of the mark, sign, erasure, designation or device upon the emergency ballot was intended to identify or distinguish the emergency ballot.

No emergency ballot shall be declared invalid by reason of the fact that the mark made with ink or the mark made with lead pencil appears other than black.

No emergency ballot cast for any candidate shall be invalid by reason of the fact that the name of that candidate may be misprinted, or the Christian name or the initials of the candidate may be omitted.

No emergency ballot cast for any candidate shall be invalid by reason of the use of any label permitted by this amendatory and supplementary act, P.L.1992, c. 3 (C. 19:53B-1 et al.) on which the title of office may be printed or the name of the candidate may be misprinted or part of the Christian name or surname or the initials of the candidate may be omitted, or because the voter in writing the name of the candidate may misspell the name or omit part of the Christian name or surname or the initials of the candidate.

No emergency ballot shall be declared void or invalid, by reason of having a cross ×, plus + or check / appearing in a square provided for a blank space, or a space wherein no name is printed.

L.1992, c. 3, § 23.

Historical and Statutory Notes

L.1992, c. 3, § 30, approved April 24, 1992, provides:

"This act [L.1992, c. 3] shall take effect immediately [April 24, 1992] and shall be

applicable to the first primary for the general election or the first general election which occurs after the 60th day following the enactment of this act."

Library References

Elections ⇨239.

WESTLAW Topic No. 144.

C.J.S. Elections § 227.

19:53B-15. Processing of void or invalid emergency ballots

In every case in which an emergency ballot shall be declared invalid, the same, which shall be enclosed in a pre-punched single-hole plain white envelope shall not be canvassed or counted, but shall be marked "VOID" on the outside thereof, and shall be numbered and placed in proper order on the string or wire with the valid ballots as provided in section 26 of this amendatory and supplementary act, P.L.1992, c. 3 (C. 19:53B-17).

Emergency ballots which shall be declared invalid with respect to a part of the candidates to be voted for or public questions to be voted upon shall be canvassed, estimated and numbered with respect to the part which is not invalid and preserved as other emergency ballots and placed in their proper order on the string or wire with the valid ballots.

L.1992, c. 3, § 24.

Historical and Statutory Notes

L.1992, c. 3, § 30, approved April 24, 1992, provides:

"This act [L.1992, c. 3] shall take effect immediately [April 24, 1992] and shall be

applicable to the first primary for the general election or the first general election which occurs after the 60th day following the enactment of this act."

Library References

Elections \S 257.

WESTLAW Topic No. 144.

C.J.S. Elections § 235.

19:53B-16. Decisions of district board deemed final; dissents

The decision of a majority of the district board on any question shall be deemed the decision of the board and final. If any member of the board dissents from any decision and wishes to make the dissension known to avoid any of the consequences which may result from that decision, the member may record the dissent in the signature copy register. The member shall sign the signature copy register to record the dissent. If the member fails to sign the signature copy register, the member shall be deemed to have assented to the decision so made.

L.1992, c. 3, § 25.

Historical and Statutory Notes

L.1992, c. 3, § 30, approved April 24, 1992, provides:

"This act [L.1992, c. 3] shall take effect immediately [April 24, 1992] and shall be

applicable to the first primary for the general election or the first general election which occurs after the 60th day following the enactment of this act."

19:53B-17. Counting of emergency ballots

The district board members, in the actual procedure of counting the emergency ballots, shall break the seal and open the emergency ballot box. The emergency ballots shall be taken singly and separately therefrom by the judge of the election board. Ballot envelopes marked "SPOILED" shall be set aside and remain unopened, and at the conclusion of counting the emergency ballots shall be placed on the string or wire after all other ballots. The outside front of each

envelope which contains a voted emergency ballot shall be numbered in consecutive order beginning with the number one. This number shall be circled. While each emergency ballot shall remain in the hands of the judge, the judge shall audibly and publicly read the ballot in full view of the other members of the district board, including the inspector of the district election board. The inspector shall verify that each emergency ballot is being correctly read by the judge. The remaining members of the district election board shall record the votes on the tally sheets, as provided. The district board members shall also record the number of void ballots on the tally sheets, as provided.

After the reading of an emergency ballot, including a ballot determined to be void, and before taking another emergency ballot from the box, the judge shall deliver the ballot to the inspector, who shall write on the back thereof the number of the emergency ballot beginning in consecutive order beginning with the number one, in the order in which the same shall have been taken from the box; and shall string the envelope that contains the emergency ballot as one ticket in the order in which the envelope was taken from the box and numbered, on the string or wire to be provided for that purpose.

The outside front of each envelope that contains a voided emergency ballot shall have the word "VOID" written next to the circled number.

After all the envelopes which contain the emergency ballots cast in one election district have been tallied and strung, the envelopes shall be returned to the ballot box. All unused emergency ballots and pre-punched single-hole plain white envelopes shall also be placed in the emergency ballot box.

L.1992, c. 3, § 26.

Historical and Statutory Notes

L.1992, c. 3, § 30, approved April 24, 1992, provides:

"This act [L.1992, c. 3] shall take effect immediately [April 24, 1992] and shall be

applicable to the first primary for the general election or the first general election which occurs after the 60th day following the enactment of this act."

Library References

Elections ⚡240.

WESTLAW Topic No. 144.

C.J.S. Elections § 223.

19:53B-18. Tallying of votes

a. The clerks of the board shall, upon the tally sheets provided for that purpose, make a list of the names of all persons for whom one or more votes shall have been given, designating the office which that

person shall be voted for, and of any public questions voted upon; and as each emergency ballot shall be read, the members shall write the figure "1" opposite the name of each person whose name is contained thereon, as designated for any office, or in the proper column designating the vote upon the public question.

b. When all the votes which were cast have been read, examined, numbered and strung, as directed, the board shall tally the votes given for each person for any office to be filled at the election or any public question and note the same upon the tally sheets. The tally sheets shall be signed by all the members of the district board. One of the tally sheets shall be placed in the emergency ballot box and the emergency ballot box shall be sealed with the remaining numbered red seal. The other tally sheet shall be filed with the county clerk at the same time the statements of results are delivered.

L.1992, c. 3, § 27.

Historical and Statutory Notes

L.1992, c. 3, § 30, approved April 24, 1992, provides:

"This act [L.1992, c. 3] shall take effect immediately [April 24, 1992] and shall be

applicable to the first primary for the general election or the first general election which occurs after the 60th day following the enactment of this act."

19:53B-19. Recording of emergency ballot tally

When the machine tally is completed, the district board members shall record the results of the emergency ballot tally, if any ballots were voted, on the statement of canvass in the section provided and shall add the emergency ballot tally to the machine tally.

L.1992, c. 3, § 28.

Historical and Statutory Notes

L.1992, c. 3, § 30, approved April 24, 1992, provides:

"This act [L.1992, c. 3] shall take effect immediately [April 24, 1992] and shall be

applicable to the first primary for the general election or the first general election which occurs after the 60th day following the enactment of this act."

19:53B-20. Custody and preservation of emergency ballots

When district board members have processed both voted and non-voted emergency ballots, the ballots shall remain sealed within the box for a period of 15 calendar days, which shall begin on the first business day after the day of the election, except that if a judge of the Superior Court issues a court order to open the box within the 15-day period, the box shall be opened.

On the first business day after the 15-day period, the custodian of the voting machines shall break the numbered security seals and the

emergency ballot boxes shall be opened. All voted emergency ballots located within an emergency ballot box shall be removed from the box and shall be placed in a container or an envelope and sealed. The front of each container or envelope shall contain the number of the voting machine, the name of the municipality and the ward or district number where the machine was located during the election. The commissioner of registration shall preserve the containers or envelopes and the contents of the containers or envelopes for a period of two years from the date that the election occurred.

L.1992, c. 3, § 29.

Historical and Statutory Notes

L.1992, c. 3, § 30, approved April 24, 1992, provides: "This act [L.1992, c. 3] shall take effect immediately [April 24, 1992] and shall be	applicable to the first primary for the general election or the first general election which occurs after the 60th day following the enactment of this act."
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Library References

Elections ¶255.
WESTLAW Topic No. 144.
C.J.S. Elections § 234.

SUBTITLE 16
**ABSENTEE VOTING—MILITARY
SERVICE [REPEALED]**

CHAPTER 54

**VOTING BY PERSONS IN MILITARY FORCES
DURING NATIONAL EMERGENCIES**

19:54-1 to 19:54-24. Repealed by L.1942, c. 18, p. 45, § 16

Historical and Statutory Notes

Sections related to voters in military service during national emergencies, and were derived as follows:

§§ 19:54-1 to 19:54-13 from L.1940, c. 194, p. 837, §§ 1 to 14.

§§ 19:54-13.1 to 19:54-13.8 from L.1941, c. 361, p. 951, §§ 1 to 10.

§§ 19:54-14 to 19:54-24 from L.1941, c. 44, p. 118, §§ 1(1) to 1(12).

For provisions relating to similar subject matter, see § 19:57-1 et seq.

19:54-25 to 19:54-40. Repealed by L.1945, c. 12, p. 47, § 1

Historical and Statutory Notes

Sections related to voters in military service during national emergency and derived from L.1942, c. 18, p. 40.

Section 3 of L.1945, c. 12, p. 47, provided that such Act should take effect

immediately but should not operate to revive any Act repealed by any of the Acts repealed by the Act of 1945.

For provisions relating to similar subject matter, see § 19:57-1 et seq.

CHAPTER 55
IN TIME OF WAR

19:55-1 to 19:55-28. Repealed by L.1945, c. 12, p. 47

Historical and Statutory Notes

Sections related to voting by persons in military service and derived from L.1944, c. 9, p. 24, §§ 1 to 20.

Section 3 of L.1945, c. 12, p. 47, provided that such Act should take effect immediately but should not operate to revive any Act repealed by any of the Acts repealed by the Act of 1945.

L.1944, c. 95, p. 246, §§ 1 to 8, amended and supplemented the original Act, L.1944, c. 9, p. 24, and provided for the use of the "Official Federal War Ballot" at the general election held in the year 1944. The provisions of L.1944, c. 95, p. 246, §§ 1 to 8, were incorporated in §§ 19:55-1, 19:55-10.1, 19:55-21 to 19:55-26.

MILITARY SERVICE VOTING

19:56-1 to 19:56-47
Repealed

L.1944, c. 208, p. 742, further amended and supplemented the original Act, L.1944, c. 9, p. 24, by amending the provisions formerly incorporated in § 19:55-9 and adding the provisions which were incorporated in §§ 19:55-9.1, 19:55-27, 19:55-28.

Sections 19:55-1 to 19:55-28, derived from the 1944 laws enumerated above,

were designed to afford voters in military service in time of war an opportunity to vote in the general election held in the year 1944. These statutory provisions were later revised and incorporated into §§ 19:55-49 to 19:55-82 (repealed) by L.1945, c. 11, p. 29.

For provisions relating to similar subject matter, see §§ 19:57-1 et seq.

19:55-29 to 19:55-48. Repealed by L.1948, c. 2, p. 45, §§ 30, 31

Historical and Statutory Notes

Sections related to primary election procedure during war time and derived from L.1945, c. 7, pp. 19 to 21, §§ 1 to

22, L.1946, c. 10, pp. 23, 24, §§ 2 to 12. For provisions relating to similar subject matter, see §§ 19:57-1 et seq.

19:55-49 to 19:55-82. Repealed by L.1948, c. 1, p. 44, § 27

Historical and Statutory Notes

Sections related to absentee voting for persons in military service and derived from L.1945, c. 11, pp. 29 to 45, §§ 1 to

34. For provisions relating to similar subject matter, see § 19:57-1 et seq.

CHAPTER 56

MILITARY SERVICE VOTING

19:56-1 to 19:56-47. Repealed by L.1953, c. 211, p. 1602, § 38

Historical and Statutory Notes

Sections related to military service voting and derived as follows:

§§ 19:56-1 to 19:56-27 from L.1948, c. 1, pp. 12 to 27, §§ 1 to 27, amended by L.1949, c. 53, pp. 342 to 344, §§ 1 to 3; L.1953, c. 19, pp. 357 to 359, §§ 60 to 62.

§§ 19:56-28 to 19:56-47 from L.1949 c. 54, pp. 346 to 351, §§ 1 to 20, amended by L.1950, c. 146, pp. 300, 301, §§ 1 to 3.

For provisions relating to similar subject matter, see §§ 19:57-1 et seq.

SUBTITLE 17

ABSENTEE VOTING

Chapter

- 57. Absentee Civilian and Military Service Voting.
- 58. Presidential Ballot Law.
- 59. Federal Election Absentee Voting.
- 60. School Elections, Generally.

CHAPTER 57

ABSENTEE CIVILIAN AND MILITARY SERVICE VOTING

Section

- 19:57-1. Short title.
- 19:57-2. Definitions.
- 19:57-3. Persons entitled to vote by absentee ballot; manner; liberal construction.
- 19:57-4. Civilian absentee or military service ballot; application; provision for sick or confined, and permanently and totally disabled.
- 19:57-4.1. Standard absentee ballot application forms; preparation; rules and regulations.
- 19:57-5. Application by relative or friend of military service voter; form.
- 19:57-6. To whom application must be made.
- 19:57-7. Notices to be published.
- 19:57-8. Printing and furnishing of ballots; directions; form.
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- 19:57-10. Comparison of signatures; investigation of application; approval or disapproval.
- 19:57-11. Forwarding of ballots by mail or hand delivery to voters.
- 19:57-11.1. Special district or regional district school elections; forwarding ballots.
- 19:57-12. Disposition of requests for absentee ballots; list.
- 19:57-13. Form of absentee ballots; markings.
- 19:57-14. Form of absentee ballots; list of candidates who do not appear on ballots to be forwarded.
- 19:57-15. Form of absentee ballots; primary elections.
- 19:57-15.1. Mechanical or electronic device for count or canvass; adoption of system by county; nonconforming ballots; preparation of ballot.
- 19:57-16. Directions to be sent with ballots; envelopes.
- 19:57-17. Certificate to be printed on margin of flap on envelopes.
- 19:57-18. Repealed.
- 19:57-19. Primary election; certificate on margin of flap on inner envelopes.

ABSENTEE VOTING

Section

- 19:57-20. Military service ballots; specifications as to weight and size; postage.
- 19:57-21. Certifying names of persons receiving military service and civilian absentee ballots.
- 19:57-22. Duties of commissioner of registration in regard to absentee and military service ballots.
- 19:57-23. Marking and handling of absentee ballots by voters; return by mail or personal delivery; record.
- 19:57-24. Duties of county board of elections after receiving absentee and military service ballots.
- 19:57-24.1. Election districts for purposes of appointment of challengers.
- 19:57-25. Qualifications of military service voters; district in which military service ballot is to be counted.
- 19:57-26. Ballots received prior to closing of polls counted.
- 19:57-27. Absentee ballots valid though not naming all candidates and though names or answers are written thereon.
- 19:57-28. Person receiving absentee ballot cannot vote in person.
- 19:57-29. Military service voter may present ballot in person.
- 19:57-30. Death of absentee or military service voter.
- 19:57-31. Canvass of absentee ballots.
- 19:57-32. Duplicate voting records, marking of.
- 19:57-33. Requests, applications, ballots and certificates to be kept one year; impounding.
- 19:57-34. Emergency voting form; registration.
- 19:57-35. Powers of county board, clerk, superintendent and commissioner over absentee voting.
- 19:57-36. Validity of election not affected by irregularities in absentee ballots.
- 19:57-37. Violations.
- 19:57-37.1. Delivery by person other than voter to county board or postal box.
- 19:57-38. Repeal.
- 19:57-39. Partial invalidity.
- 19:57-40. Effective date.

Cross References

Presidential ballot law, see § 19:58-1 et seq.

Library References

Elections ⇨ 216.1.

WESTLAW Topic No. 144.

C.J.S. Elections § 210.

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19:57-1. Short title

This act¹ shall be known as and may be cited as the "Absentee Voting Law (1953)."

L.1953, c. 211, p. 1579, § 1.

¹ N.J.S.A. §§ 19:57-1 to 19:57-40.

Constitutional Provisions

Article 2, par. 4, provides:

"In time of war no elector in the military service of the State or in the armed forces of the United States shall be deprived of his vote by reason of absence from his election district. The Legislature may provide for absentee voting by

members of the armed forces of the United States in time of peace. The Legislature may provide the manner in which and the time and place at which such absent electors may vote, and for the return and canvass of their votes in the election district in which they respectively reside."

Administrative Code References

Absentee ballots, see N.J.A.C. 15:10-4.1 et seq.

Notes of Decisions

Privilege of absentee voting 3

Purpose 2

Validity 1

1. Validity

This chapter purporting to authorize civilian absentee voting at elections held in New Jersey was constitutional, notwithstanding the fact that Constitution expressly authorized only legislative provision for absentee voting by electors in military service. *Gangemi v. Berry*, 25 N.J. 1, 134 A.2d 1 (1957).

2. Purpose

Clear objective of Absentee Voter Act is to facilitate exercise of franchise of voters while preventing fraud and preserving secrecy and integrity of voting process. *Barrett v. Monmouth County Bd. of Elections*, 307 N.J.Super. 403, 704 A.2d 1053 (L.1997), affirmed 307 N.J.Super. 191, 704 A.2d 945.

Absentee Voter Act should be construed consistent with goals of preserving enfranchisement of qualified voters, safeguarding secrecy of ballot, preventing fraud and maintaining integrity of election process. *Barrett v. Monmouth County Bd. of Elections*, 307 N.J.Super. 403, 704 A.2d 1053 (L.1997), affirmed 307 N.J.Super. 191, 704 A.2d 945.

3. Privilege of absentee voting

Absentee voting is a privilege rather than a right and its roots must come by way of legislative enactment since absentee voting did not exist at common law. *Mulcahy v. Bergen County Bd. of Elections*, 156 N.J.Super. 429, 383 A.2d 1214 (L.1978).

Opportunity of absentee to cast his vote at public election by mail has characteristics of privilege rather than right, and is not an absolute, but a conditional, right dependent upon many circumstances, some of which are not within control of voter. *De Flesco v. Mercer County Bd. of*

Elections, 43 N.J.Super. 492, 129 A.2d 38
(A.D.1957).

19:57-2. Definitions

Whenever used in this act,¹ the following terms shall, unless the context indicates otherwise, be construed to have the following meanings:

"Absentee ballot" means any military service ballot or civilian absentee ballot as herein defined.

"Absentee voter" means any person qualified to vote a military service ballot or a civilian absentee ballot under the provisions of this act.

"Armed Forces of the United States" means any branch or department of the United States Army, Navy, Air Force, Coast Guard or Marine Corps.

"Civilian absentee ballot" means a ballot for use by a civilian absentee voter as prescribed by this act.

"Civilian absentee voter" means any qualified and registered voter of the State who expects to be absent from the State on the day of any election and any qualified and registered voter who will be within the State on the day of any election but because of illness or physical disability, including blindness or pregnancy, or because of the observance of a religious holiday pursuant to the tenets of his religion, or because of resident attendance at a school, college or university, or because of the nature and hours of his employment, will be unable to cast his ballot at the polling place in his election district on the day of the election.

"Election," "general election," "primary election for the general election," "municipal election," "school election," and "special election" shall mean, respectively, such elections as defined in the Title to which this is a supplement (R.S. 19:1-1 et seq.).

"Family member" means an adult who is a spouse, parent, child, grandparent, grandchild or sibling of a voter, whether by adoption or natural relationship. It shall also include any adult occupant regularly living with a voter in any residential building or part of a building intended for the use of no more than one family.

"Incapacitated absentee voter" means a voter who, due to incapacity, is unable to complete his ballot.

"Military service" means active service by any person, as a member of any branch or department of the United States Army, Navy, Air Force, Coast Guard or Marine Corps, or as a member of the maritime or merchant marine service, or as a reservist absent from

his place of residence and undergoing training under Army, Navy, Air Force, Coast Guard or Marine Corps direction, at a place other than that of such person's residence.

"Military service voter" means a qualified elector under the Constitution and the laws of this State who comes within one of the following categories:

(a) Persons in the military service and their spouses and dependents.

(b) Patients in a veterans' hospital located in any place other than the place of their residences who have been in the military service in any war in which the United States has been engaged and have been discharged or released from such service.

(c) Civilians attached to or serving with the Armed Forces of the United States without this State and their spouses and dependents when residing with or accompanying them.

"Military service ballot" means a ballot for use by a military service voter as prescribed by this act.

"Member of the maritime or merchant marine service" means any person employed as an officer or crew member of a vessel documented under the laws of the United States, or a vessel owned by the United States, or a vessel of foreign-flag registry under charter to or control of the United States or enrolled with the United States for employment or training for employment, or maintained by the United States for emergency relief service as an officer or crew member of any such vessel or any such person as otherwise defined in section 107 of Pub.L. 99-410, the "Uniformed and Overseas Citizens Absentee Voting Act," (42 U.S.C. § 1973ff-6).

L.1953, c. 211, p. 1579, § 2. Amended by L.1957, c. 202, p. 708, § 1; L.1958, c. 76, p. 513, § 1; L.1959, c. 153, p. 598, § 1; L.1960, c. 140, p. 660, § 1; L.1963, c. 22, § 1; L.1968, c. 238, § 1; L.1970, c. 307, § 1, eff. Dec. 16, 1970; L.1977, c. 47, § 1, eff. March 24, 1977; L.1981, c. 390, § 1, eff. Jan. 6, 1982; L.1993, c. 73, § 1, eff. April 11, 1993; L.1995, c. 278, § 22, eff. March 14, 1996.

¹ N.J.S.A. §§ 19:57-1 to 19:57-40.

Historical and Statutory Notes

Section 17 of L.1968, c. 238, approved July 31, 1968, provided:

"This act shall take effect July 1, 1968."

Section 19 of L.1977, c. 47, approved March 24, 1977, provides:

"This act shall take effect immediately but shall not apply to any election held within 60 days from the date of enactment."

Notes of Decisions

Civilian absentee voter 1, 2

In general 1

Physical disability 2

Physical disability, civilian absentee voter 2

1. Civilian absentee voter—In general

Civilian absentee voters' certificate which did not specify address and length of residence of applicant for absentee ballot was properly rejected. *Petition of Keogh-Dwyer*, 85 N.J.Super. 188, 204 A.2d 351 (A.D.1964), reversed on other grounds 45 N.J. 117, 211 A.2d 778.

2. — Physical disability, civilian absentee voter

Provision of § 19:57-18 (repealed) that civilian absentee voter casting absentee ballot by reason of "physical disability" include certificate of physician or practitioner included within term "physical disability" pregnancy which, by amendment to this section, entitled woman to vote by absentee ballot so that certificate must be furnished in cases of existing disability due to pregnancy. *Application of Farley*, 78 N.J.Super. 349, 188 A.2d 607 (A.D. 1963), certification denied 40 N.J. 220, 191 A.2d 61.

19:57-3. Persons entitled to vote by absentee ballot; manner; liberal construction

The following persons shall be entitled to vote by absentee ballot in any election to be held in this State, in the manner hereinafter provided:

A military service voter who may be absent on the day on which such election is held from the election district in which he resides, whether such person is within or without this State in the case of a military service voter as defined in paragraph (a) or (b) of section 2,¹ or without this State and within or without the United States in the case of any military service voter as defined in section 2, provided he has resided in this State at least 30 days and in the county in which he claims the right to vote at least 30 days counting the time he has been absent from the election district in which he resides because of the service, work, status or relationship entitling him to a military service ballot;

A military service voter who is stationed and resident in any garrison, barrack or military or naval place or station within this State, or who resides therein as spouse or dependent of a person in the military, naval or marine service so stationed, and who claims his vote in the municipality wherein such residence is located, shall be entitled to vote by military absentee ballot in any election for which he is duly registered to cast his vote in the election district of his residence in said municipality, but not otherwise;

A civilian absentee voter who expects to be or may be absent outside the State or the United States on the day on which an election is held or who may be within the State on the day of any election but because of permanent and total disability, or because of illness or temporary physical disability, or because of the observance of a religious holiday pursuant to the tenets of his religion, or

because of resident attendance at a school, college or university, or because of the nature and hours of his employment, will be unable to cast his ballot at the polling place in his election district on the day of the election, provided he is a registered voter, and is not otherwise disqualified by law from voting in such election.

This act shall be liberally construed to effectuate these purposes.

L.1953, c. 211, p. 1580, § 3. Amended by L.1957, c. 202, p. 710, § 2; L.1958, c. 58, p. 174, § 1; L.1959, c. 153, p. 600, § 2; L.1964, c. 7, § 5; L.1968, c. 238, § 2, eff. July 1, 1968; L.1970, c. 307, § 2, eff. Dec. 16, 1970; L.1977, c. 47, § 2, eff. March 24, 1977.

¹ N.J.S.A. § 19:57-2.

Historical and Statutory Notes

Effective date and date of application of L.1977, c. 47, see Historical Note under § 19:57-2.

American Law Reports

Construction and effect of absentee voters' laws, 97 ALR2d 257.

State voting rights of residents of federal military establishment, 34 ALR2d 1193.

Validity of absentee voters' laws, 97 ALR2d 218.

Law Review and Journal Commentaries

Survey of constitutional law. C. Willard Heckel (1958) 13 Rutgers L.Rev. 17.

Library References

Elections Ⓒ216.1.

WESTLAW Topic No. 144.

C.J.S. Elections § 210.

Texts and Treatises

26 Am Jur 2d, Elections §§244, 245, 247.

Notes of Decisions

Absence from state 4
Illness or physical disability 2
Jurat 5
Liberal construction 1
Religion 3
Void ballots 6

completely disregard clear and explicit provisions in absentee voting law which were adopted to preserve sanctity and proper functioning of election laws. *Mulcahy v. Bergen County Bd. of Elections*, 156 N.J.Super. 429, 383 A.2d 1214 (L.1978).

1. Liberal construction

Even though statutory reference requires liberal construction, court cannot

This section mandating liberal construction of absentee voting law to effectuate its purposes does not license

complete disregard of clear and explicit provisions adopted to preserve sanctity and proper functioning of election laws. Petition of Keogh-Dwyer, 85 N.J.Super. 188, 204 A.2d 351 (A.D.1964), reversed on other grounds 45 N.J. 117, 211 A.2d 778.

Legislative mandate that "act shall be liberally construed" is not a license to disregard clear and explicit provisions of absentee voting law adopted to preserve sanctity and proper functioning of the election laws. Application of Gould, 81 N.J.Super. 579, 196 A.2d 278 (L.1963).

2. Illness or physical disability

Provision of § 19:57-18 (repealed) that civilian absentee voter casting absentee ballot by reason of "physical disability" include certificate of physician or practitioner included within term "physical disability" pregnancy which, by amendment to § 19:57-2, entitled women to vote by absentee ballot so that certificate must be furnished in cases of existing disability due to pregnancy. Application of Farley, 78 N.J.Super. 349, 188 A.2d 607 (A.D. 1963), certification denied 40 N.J. 220, 191 A.2d 61.

Woman, who, in good faith, made application for civilian absentee ballot for November 6 general election on ground of pregnancy but whose baby was born October 18 and who was physically able to go to polls November 6, was not required to furnish doctor's certificate with absentee ballot or to amend flap certificate filed November 2 stating inability to leave place of confinement because of giving birth to baby October 18, to be entitled to have vote counted. Application of Farley, 78 N.J.Super. 349, 188 A.2d 607 (A.D.1963), certification denied 40 N.J. 220, 191 A.2d 61.

3. Religion

Since the Absentee Voting Law permits voting by absentee ballot by civilians only if they expect to be or may be absent

outside the State on the day on which the election is held, or if they will be unable to cast ballots on the day of the election because of illness or physical disability, persons, who had religious scruples against riding and writing on April 16, 1957, the day of primary election, could not vote by absentee ballot. Atty.Gen. F.O.1957, No. 2.

4. Absence from state

Where registered voters, husband and wife, requested, received and returned absentee ballots for election held at time husband, a college professor, was in Hawaii for one year on sabbatical exchange program with his university and was accompanied by his wife and voters intended to return to their home in New Jersey in time to resume teaching assignments in New York as of date less than one year from election, their ballots were valid. Petition of Hartnett, 163 N.J.Super. 257, 394 A.2d 871 (A.D.1978).

5. Jurat

Military officer's attempt to take his own jurat when he signed his absentee military service ballot was a nullity. Application of Gould, 81 N.J.Super. 579, 196 A.2d 278 (L.1963).

6. Void ballots

Omission of two voters to state reason for desiring absentee ballot was fatal and required rejection of civilian absentee voters' certificates. Petition of Keogh-Dwyer, 85 N.J.Super. 188, 204 A.2d 351 (A.D.1964), reversed on other grounds 45 N.J. 117, 211 A.2d 778.

Submission of supplemental proof of signature on absentee military service ballot in form of new certificate signed by military voter and sworn to before another military officer could not give life to ballot which was void because of voter's attempt to take his own jurat in regard to ballot. Application of Gould, 81 N.J.Super. 579, 196 A.2d 278 (L.1963).

19:57-4. Civilian absentee or military service ballot; application; provision for sick or confined, and permanently and totally disabled

At any time not less than seven days prior to an election in which he desires to vote by mail, a civilian absentee voter may apply to the person designated in section 6 of this act,¹ for a civilian absentee

ballot. Such application or request shall be made in writing, shall be signed by the applicant and shall state his or her place of voting residence and the address to which said ballot shall be sent, and the reason for which the ballot is requested.

Any military service voter desiring to vote in any election or any relative or friend of a military service voter who believes that such voter will desire to vote in any election, may apply to the person designated in section 6 of this act for a military service ballot to be sent to such voter. A military service voter may use a federal postcard application form to apply for a military service ballot. On any application made by a military service voter the voter may request a military service ballot for all subsequent elections held during the calendar year in which the request is made; if such a request is made, a military service ballot shall be sent in a timely manner to the voter for all such elections.

Any civilian absentee voter who fails to apply within the 7-day time prescribed above may apply in person to the county clerk for an absentee ballot on any day up to 3 p.m. of the day before the election.

In the event of sickness or confinement, the qualified voter may apply in writing for and obtain an absentee ballot by authorized messenger, who shall be so designated over the signature of the voter and whose printed name and address shall appear on the application in the space provided. The authorized messenger shall be a family member or a registered voter of the county in which the application is made and shall place his signature on the application in the space so provided in the presence of the county clerk or his designee. The county clerk or his designee shall authenticate the signature of the authorized messenger, in the event such a messenger is other than a family member, by comparing it with the signature of the said person appearing on a State of New Jersey driver's license, or other identification issued or recognized as official by the federal government, the State, or any of its political subdivisions, which identification carries the full address and signature of said person. After the signature of the application and, when appropriate, authentication, the county clerk or his designee is authorized to deliver to the authorized messenger a ballot to be delivered to the qualified voter. The Secretary of State shall cause to be prepared a standard authorized messenger application form, which may be included with the standard civilian absentee ballot application forms.

A voter who is permanently and totally disabled, and who states the reason for such disability in a request for an absentee ballot, shall be furnished an application for an absentee ballot by the county clerk

for all future elections in which the voter shall be eligible to vote, without further request on the part of the voter.

L.1953, c. 211, p. 1581, § 4. Amended by L.1968, c. 238, § 3, eff. July 1, 1968; L.1972, c. 31, § 1, eff. May 25, 1972; L.1975, c. 223, § 1, eff. Oct. 8, 1975; L.1977, c. 47, § 3, eff. March 24, 1977; L.1981, c. 390, § 2, eff. Jan. 6, 1982; L.1993, c. 73, § 2, eff. April 11, 1993.

¹ N.J.S.A. § 19:57-6.

Historical and Statutory Notes

Effective date and date of application of L.1977, c. 47, see Historical Note under § 19:57-2.

Administrative Code References

Absentee ballots, see N.J.A.C. 15:10-4.1 et seq.

American Law Reports

Construction and effect of absentee voters' laws, 97 ALR2d 257.

State voting rights of residents of federal military establishment, 34 ALR2d 1193.

Library References

Texts and Treatises

26 Am Jur 2d, Elections § 248.

Notes of Decisions

Acknowledgment or notarization 3

Civilian absentee ballots 1

Delivery 2

1. Civilian absentee ballots

Woman, who, in good faith, made application for civilian absentee ballot for November 6 general election on ground of pregnancy but whose baby was born October 18 and who was physically able to go to polls November 6, was not required to furnish doctor's certificate with absentee ballot or to amend flap certificate filed November 2 stating inability to leave place of confinement because of giving birth to baby October 18, to be entitled to have vote counted. Application of Farley, 78 N.J.Super. 349, 188 A.2d 607 (A.D.1963), certification denied 40 N.J. 220, 191 A.2d 61.

86 year old man who suffered from physical senility and who had a discharging lesion of the knee and cellulitis and possibly osteomyelitis, and elderly man

who had glaucoma and who was afflicted with arteriosclerosis and hypertension, were not medically fit to go to the polls and were properly allowed to cast civilian absentee ballots. Application of Moore, 57 N.J.Super. 244, 154 A.2d 631 (A.D. 1959).

2. Delivery

The misdelivery of 51 ballots, arising out of use of a messenger, was so significant by reason of its invitation to fraud and to violations of secrecy that the ballots were required to be voided for purposes of council election. In Matter of Tyler, 167 N.J.Super. 115, 400 A.2d 541 (L.1979).

Only means by which county clerk may convey absentee ballot to voter are by first-class mail, directly to voter when he or she appears at office of county clerk or by authorized messenger under statutory procedure if voter is sick or confined. Petition of Byron, 165 N.J.Super. 468, 398 A.2d 599 (L.1978), affirmed 170

Note 2

N.J.Super. 410, 406 A.2d 982, certification denied 82 N.J. 280, 412 A.2d 786.

3. Acknowledgment or notarization

Absentee ballots of municipal residents were valid in municipal council election, even though residents' signatures were

not acknowledged before an officer authorized to take an oath, since each resident had signed his or her own application. Matter of Mallon, 232 N.J.Super. 249, 556 A.2d 1271 (A.D.1989), certification denied 117 N.J. 166, 564 A.2d 883.

19:57-4.1. Standard absentee ballot application forms; preparation; rules and regulations

a. The Secretary of State shall cause to be prepared a standard military service absentee ballot application form and a standard civilian absentee ballot application form. Said civilian absentee ballot application form shall be printed in the NOTICE TO PERSONS DESIRING CIVILIAN ABSENTEE BALLOTS required to be published pursuant to section 7 of P.L.1953, c. 211 (C. 19:57-7).

b. The Secretary of State shall have the authority to promulgate any rules and regulations to carry out this act.

L.1977, c. 47, § 17, eff. March 24, 1977.

Historical and Statutory Notes

Title of Act:

An Act concerning absentee voting, amending and supplementing the "Absentee

tee Voting Law (1953)," approved July 1, 1953 (P.L.1953, c. 211) and repealing N.J.S. 18A:14-26. L.1977, c. 47.

19:57-5. Application by relative or friend of military service voter; form

The form of application to be used by a relative or friend of a military service voter shall be substantially as follows:

APPLICATION BY RELATIVE OR FRIEND FOR A MILITARY SERVICE BALLOT

The undersigned, residing at
(street and number or R.D. route)
in in the county of
(name of city or other municipality)
in the State of does hereby make application
for a military service ballot to be voted at the election to be held
on for
(date of election) (name of military service voter and serial
number
..... whose home
if in the military service)
address is at
(street and number or R.D. route)
in in

19:57-5

the county of in the State of New Jersey and who is
stationed or can be found at

(NOTE: MILITARY SERVICE VOTER CLAIMING MILITARY STATION AS HOME ADDRESS FOR VOTING PURPOSES MAY NOT USE MILITARY ABSENTEE BALLOT UNLESS REGISTERED TO VOTE IN THE MUNICIPALITY WHERE SUCH STATION IS LOCATED.)

- (a) ☐ A person in military service.
- (b) ☐ A spouse or dependent of a person in category (a).
- (c) ☐ A patient in a veteran's hospital.
- (d) ☐ A civilian attached to or serving with the Armed Forces of the United States.
- (e) ☐ A spouse or dependent of and accompanying or residing with a person in category (d).

State of)
County of) ss.

The undersigned, being duly sworn on his oath according to law, says that the contents of the foregoing application are true.

Sworn and subscribed to before me this day of
..... A.D.

(name and title of officer taking affidavit)

Such affidavit shall be subscribed and sworn to before a person authorized to administer oaths.

L.1953, c. 211, p. 1581, § 5. Amended by L.1958, c. 58, p. 174, § 2; L.1964, c. 7, § 6; L.1968, c. 238, § 4, eff. July 1, 1968; L.1977, c. 47, § 4, eff. March 24, 1977.

Notes of Decisions

Oath 1

1. Oath

Absentee ballots of municipal residents were valid in municipal council election,

even though residents' signatures were not acknowledged before an officer authorized to take an oath, since each resident had signed his or her own application. Matter of Mallon, 232 N.J.Super. 249, 556 A.2d 1271 (A.D.1989), certification denied 117 N.J. 166, 564 A.2d 883.

19:57-6. To whom application must be made

In the case of any election, the application or request shall be made to the county clerk of the county.

In the case of applications for civilian absentee ballots, the county clerk shall stamp thereon the date on which said application was received in his office.

L.1953, c. 211, p. 1582, § 6. Amended by L.1977, c. 47, § 5, eff. March 24, 1977.

19:57-7. Notices to be published

The county clerk of the county, in the case of any Statewide election, countywide election, or school election in a regional or other school district comprising more than one municipality; the clerk of the municipality, in the case of any municipal election or school election in a school district comprising a single municipality; and the commissioners or other governing or administrative body of the district, in the case of any election to be held in any fire district, road district, sewerage district, street lighting district, water supply district or other special district, other than a municipality, created for specified public purposes within one or more municipalities, shall publish or cause to be published the following notices in substantially the following forms:

NOTICE TO MILITARY SERVICE VOTERS AND
TO THEIR RELATIVES AND FRIENDS

If you are in the military service, or the spouse or dependent of a person in military service or are a patient in a veterans' hospital or a civilian attached to or serving with the Armed Forces of the United States without the State of New Jersey, or the spouse or dependent of and accompanying or residing with a civilian attached to or serving with the Armed Forces of the United States, and desire to vote, or if you are a relative or friend of any such person who, you believe, will desire to vote in the (school, municipal, primary, general or other) election to be held on (date of election) kindly write to the undersigned at once making application for a military service ballot to be voted in said election to be forwarded to you, stating your name, age, serial number if you are in military

service, home address and the address at which you are stationed or can be found, or if you desire the military service ballot for a relative or friend then make application under oath for a military service ballot to be forwarded to him, stating in your application that he is over the age of 18 years and stating his name, serial number if he is in military service, home address and the address at which he is stationed or can be found.

Military service voters may also apply for a military service ballot by sending a federal postcard application form to the undersigned.

On the application for a military service ballot, military service voters may request that a military service ballot be sent for all subsequent elections held during this calendar year.

(NOTE: MILITARY SERVICE VOTER CLAIMING MILITARY STATION AS HOME ADDRESS FOR VOTING PURPOSES MAY NOT USE MILITARY ABSENTEE BALLOT UNLESS REGISTERED TO VOTE IN THE MUNICIPALITY WHERE SUCH STATION IS LOCATED.)

Forms of application other than federal postcard application forms can be obtained from the undersigned. Dated

.....
(signature and title of county clerk)

.....
(address of county clerk)

NOTICE TO PERSONS DESIRING CIVILIAN ABSENTEE BALLOTS

If you are a qualified and registered voter of the State who expects to be absent outside the State on (date of election) or a qualified and registered voter who will be within the State on (date of election) but because of permanent and total disability, or because of illness or temporary physical disability, or because of the observance of a religious holiday pursuant to the tenets of your religion, or because of resident attendance at a school, college, or university, or because of the nature and hours of employment, will be unable to cast your ballot at the polling place in your district on said date, and you desire to vote in the (school, municipal, primary, general, or other) election to be held on (date of election) kindly complete the application form below and send to the undersigned, or write or apply in person to the undersigned at once requesting that a civilian absentee ballot be forwarded to you. Such request must state your home address, and the address to which said ballot should be sent, and must be signed with your signature, and state the reason why you will not be able to vote at your usual polling

place. No civilian absentee ballot will be furnished or forwarded to any applicant unless request therefor is received not less than seven days prior to the election, and contains the foregoing information.

Voters who are permanently and totally disabled shall, after their initial request and without further action on their part, be forwarded an absentee ballot application by the county clerk for all future elections in which they are eligible to vote. Application forms may be obtained by applying to the undersigned either in writing or by telephone, or the application form provided below may be completed and forwarded to the undersigned. Dated

.....
(signature and title of county clerk)

.....
(address of county clerk)

.....
(Telephone No. of county clerk)

APPLICATION FORM FOR CIVILIAN ABSENTEE BALLOT

(Form to be prepared by the Secretary of State pursuant to section 17 of P.L.1977, c. 47 (C.19:57-4.1)).

Such notices shall be separately published prior to the 50th day immediately preceding the holding of any election.

Notices relating to any Statewide or countywide election shall be published by the county clerk in at least two newspapers published in the county. All other officials charged with the duty of publishing such notices shall publish the same in at least one newspaper published in each municipality or district in which the election is to be held or if no newspaper be published in said municipality or district, then in a newspaper published in the county and circulating in such municipality, municipalities or district. All such notices shall be display advertisements.

L.1953, c. 211, p. 1583, § 7. Amended by L.1957, c. 202, p. 710, § 3; L.1959, c. 153, p. 600, § 3; L.1968, c. 238, § 5, eff. July 1, 1968; L.1970, c. 307, § 3, eff. Dec. 16, 1970; L.1977, c. 47, § 6, eff. March 24, 1977; L.1985, c. 92, § 31, eff. March 26, 1985; L.1993, c. 73, § 3, eff. April 11, 1993; L.1995, c. 278, § 23, eff. March 14, 1996.

Historical and Statutory Notes

Effective date and application of
L.1985, c. 92, see Historical Note under
§ 18A:9-10.

Statement: Committee statement to
Senate, No. 2244-L.1985, c. 92, see
§ 18A:9-10.

Cross References

Bond proceedings and bonds or other obligations, validation notwithstanding failure to publish notices of meeting or election as required by Absentee Voting Law, see Val.:8-6.63 et seq.

Notes of Decisions

Contents of notice 1
Time of publication 2

1. Contents of notice

Legislature had required publication of notices to absentee voters containing voting instructions, and it had not called for printing of such information on sample ballot, and thus material relating to absentee voting information, followed by name of county clerk and phone number, must be removed from future sample ballots. *Millman v. Kelly*, 171 N.J.Super. 589, 410 A.2d 283 (L.1979).

2. Time of publication

In enacting this section requiring notice for absentee voting to be published prior to the fortieth day immediately preceding the holding of election, the Legislature intended a 40-day notice provision in the conventional sense and this section

does not require the notice for absentee voting to be published 41 days before the date of election. *Steger v. Schellenger*, 33 N.J. 293, 163 A.2d 377 (1960).

The provision in Absentee Voting Law calling for 40 days' notice and the statutory direction that special election to adopt municipal-manager from of government be held on fourth Tuesday following date of filing of petition with municipal clerk can be reconciled by delaying the election to the first Tuesday after the expiration of the 40-day period. *Steger v. Schellenger*, 33 N.J. 293, 163 A.2d 377 (1960).

Local school districts, consistent with this section and § 18A:14-25, must publish notices for absentee and military ballots as near as possible to forty days prior to the school election and these notices must set forth the correct date of such election. *Atty.Gen.F.O.1975, No. 3.*

19:57-8. Printing and furnishing of ballots; directions; form

Each county clerk shall cause to be printed sufficient military service ballots and civilian absentee ballots for each primary election for the general election, and for the general election, and there shall be furnished to the said county clerk of the county, as expeditiously as possible before the day fixed for holding any other election within the county, by the officer whose duty it shall be to provide the official ballots for such election, sufficient military service ballots and civilian absentee ballots. Along with all such ballots for all elections there shall also be furnished by such county clerk or other official, inner and outer envelopes and printed directions for the preparation and transmitting of such ballots, for use in such election within the county and all expenses of mailing such ballots shall be paid in the same manner as other expenses of said election are paid.

The absentee ballots used in counties which do not use any type of computer punch cards as absentee ballots shall be printed on paper different in color from that used for the primary or general election ballot, but in all other respects, shall be as nearly as possible facsimiles of the election ballot to be voted at such election, as

prescribed by the county clerk and in conformity with the provisions of this act.¹

L.1953, c. 211, p. 1585, § 8. Amended by L.1994, c. 77, § 12, eff. Jan. 1, 1995.

¹ N.J.S.A. §§ 19:57-1 to 19:57-40.

Administrative Code References

Absentee ballots, see N.J.A.C. 15:10-4.1 et seq.

19:57-9. List of applications; filing

Each county clerk, upon receipt of applications for military service ballots, shall make a list of them and shall file them alphabetically, according to the municipalities of the home addresses of the military service voters appearing thereon, which list and file shall be open to examination at all times by the county board of elections of the county, commissioner of registration and the superintendent of elections in counties in which a superintendent of elections is in office.

Such lists shall be available at all times for examination and use by the county board of elections, commissioner of registration and superintendent of elections of the county for comparison with the military records of the State for purposes of verification of the qualifications as military voters of the persons whose names appear thereon.

L.1953, c. 211, p. 1586, § 9.

19:57-10. Comparison of signatures; investigation of application; approval or disapproval

Upon receipt of any request for a civilian absentee ballot or any application for a military absentee ballot from a military service voter who is required under section 3 of this act¹ to be registered in the municipality where he intends to cast such military absentee ballot, the county clerk shall, with the cooperation of the Commissioner of Registration, cause the signature of the applicant on the request to be compared with the signature of said person appearing on the permanent registration form, or the digitalized image of the voter's signature stored in the data processing equipment of the Commissioner of Registration or office of the county clerk and accessed by the clerk, in order to determine from such examination and any other available information if the applicant is a voter qualified to cast a ballot in the election in which he desires to vote, and determine in case of a primary election in which political party primary the voter is entitled to vote. The Commissioner of Registration or the superintendent of elections in counties having a superintendent of elections may investigate any application or request for an absentee ballot.

If after such examination, the county clerk is satisfied that the applicant is entitled to a ballot, he shall mark on the application "Approved." If after such examination the county clerk determines that the applicant is not entitled to a ballot, he shall mark on the application "Disapproved" and shall so notify the applicant, stating the reason therefor.

L.1953, c. 211, p. 1586, § 10. Amended by L.1959, c. 140, p. 582, § 1; L.1977, c. 47, § 7, eff. March 24, 1977; L.1994, c. 154, § 3, eff. Dec. 9, 1994.

¹ N.J.S.A. § 19:57-3.

American Law Reports

Construction and effect of absentee voters' laws, 97 ALR2d 257.

Library References

Texts and Treatises

26 Am Jur 2d, Elections §§250, 251.

Notes of Decisions

Rejection of application 1

1. Rejection of application

County clerk's failure to remove two residents' voting record sheets from the registration books and his improper coding of four absentee ballots did not constitute "malconduct" by clerk sufficient to void municipal council election; overruling *Magura v. Smith*, 131 N.J.Super. 395, 330 A.2d 52. Matter of Mallon, 232 N.J.Super. 249, 556 A.2d 1271 (A.D. 1989), certification denied 117 N.J. 166, 564 A.2d 883.

County clerk's power to reject application for absentee ballot was not exclusive, and, thus, county board of elections could reject absentee ballot that was issued on the basis of an application which did not state a reason for its issuance, even though county clerk had approved application. *Matarese v. Superintendent of Elections*, 228 N.J.Super. 148, 549 A.2d 69 (L.1988).

County clerk has no authority to reject ballots once they have been voted and only has authority to refuse to forward absentee ballot before it is voted. *Matarese v. Superintendent of Elections*, 228 N.J.Super. 148, 549 A.2d 69 (L.1988).

19:57-11. Forwarding of ballots by mail or hand delivery to voters

Each county clerk shall forward a military service ballot or a civilian absentee ballot, as the case may be, for use under this act by first-class mail or hand delivery to each military service voter who applies therefor or on whose behalf application is made therefor, and whose application is approved in any case where approval is required under section 10 of this act,¹ and to each civilian absentee voter whose request therefor has been approved. Hand delivery of an absentee ballot shall be made by the county clerk or his designee only to the voter or his authorized messenger, who must appear in person. Ballots that have not been hand delivered shall be addressed

to the voter at the forwarding address given in the application. All ballots to be forwarded to persons at an address located within the limits of the states of Alaska and Hawaii or anywhere else without the limits of the other 48 states and the District of Columbia shall be forwarded by air mail.

Such ballot shall be so forwarded as soon as practicable after the 40th day preceding the day upon which any election is to be held.

L.1953, c. 211, p. 1587, § 11. Amended by L.1963, c. 125, § 1; L.1972, c. 31, § 2, eff. May 25, 1972; L.1977, c. 47, § 8, eff. March 24, 1977; L.1981, c. 390, § 3, eff. Jan. 6, 1982; L.1985, c. 92, § 32, eff. March 26, 1985.

¹ N.J.S.A. § 19:57-10.

Historical and Statutory Notes

Effective date and application of L.1985, c. 92, see Historical Note under § 18A:9-10.

Statement: Committee statement to Senate, No. 2244-L.1985, c. 92, see § 18A:9-10.

Notes of Decisions

Delivered 1 Delivery 2

1. Delivered

Term "delivered" in this section governing delivery of absentee ballots requires deliverer, the county clerk and only the county clerk, to transport ballot to the voter. Petition of Byron, 165 N.J.Super. 468, 398 A.2d 599 (L.1978), affirmed 170 N.J.Super. 410, 406 A.2d 982, certification denied 82 N.J. 280, 412 A.2d 786.

2. Delivery

Two of the vital concerns of legislature in enacting absentee voting legislation, preservation of secrecy of ballot and prevention of fraud, were placed in jeopardy by procedure of county clerk issuing absentee ballots to third parties for delivery to voters, and thus intent of legislature would best be served by voiding such ballots. Petition of Byron, 165 N.J.Super. 468, 398 A.2d 599 (L.1978), affirmed 170 N.J.Super. 410, 406 A.2d 982, certification denied 82 N.J. 280, 412 A.2d 786.

19:57-11.1. Special district or regional district school elections; forwarding ballots

In any case in which a military service ballot or civilian absentee ballot is mailed to a military service voter or civilian absentee voter for use in any annual district or regional district school election pursuant to an application therefor and thereafter a special district school election is called pursuant to section 18:7-81 of the Revised Statutes or section 1 of chapter 96 of the laws of 1954 (C.

18:8-16.1),¹ the county clerk shall cause a military service ballot or civilian absentee ballot for use in said special district or regional district school election to be mailed to the military service voter or civilian absentee voter, as the case may be, without any further application for any such ballot.

L.1967, c. 148, § 1, eff. July 10, 1967.

¹ Both repealed 1969.

Historical and Statutory Notes

Title of Act:	"Absentee Voting Law (1953)," approved
An Act relating to certain school district elections and supplementing the	July 1, 1953 (P.L.1953, c. 211). L.1967, c. 148.

Library References

Elections ⇨ 216.1.

WESTLAW Topic No. 144.

C.J.S. Elections § 210.

19:57-12. Disposition of requests for absentee ballots; list

Each county clerk, after processing the request for civilian absentee ballots and the applications for military absentee ballots requiring approval under section 10 of this act¹ and furnishing the applicant with a civilian or military absentee ballot in the manner prescribed by this act, shall forward such requests, including those disapproved, to the county board of elections. Each county clerk shall also keep a list of such requests received by him showing the disposition of each request, which list shall be made available to the public and all election officials charged with the duty of administering this act.

L.1953, c. 211, p. 1587, § 12. Amended by L.1977, c. 47, § 9, eff. March 24, 1977.

¹ N.J.S.A. § 19:57-10.

19:57-13. Form of absentee ballots; markings

Each absentee ballot to be used at any election shall conform generally to the ballot to be used at said election in the absentee voter's district but the ballots shall be plainly marked "Military Service Ballot" or "Civilian Absentee Ballot," as the case may be.

At the top of every absentee ballot there shall be printed or stamped in a prominent size the following:

To protect your vote:

IT IS AGAINST THE LAW FOR ANYONE EXCEPT YOU THE VOTER TO MARK OR INSPECT THIS BALLOT.

However, a family member may assist you in doing so. If you are an incapacitated absentee voter, a person other than a family member may also assist you in doing so.

L.1953, c. 211, p. 1587, § 13. Amended by L.1981, c. 390, § 4, eff. Jan. 6, 1982.

Library References

Elections ⇨180(1) et seq.
WESTLAW Topic No. 144.
C.J.S. Elections § 174 et seq.

19:57-14. Form of absentee ballots; list of candidates who do not appear on ballots to be forwarded

Each absentee ballot to be used at any election to be held while this act is in effect shall be printed entirely in black ink and, except as otherwise provided, shall conform generally to the ballot to be used at said election in the absentee voter's election district and shall be so prepared that the absentee voter may indicate thereon his choice of such of the candidates for the offices to be filled, and as to such public questions to be voted upon, at said election by the voters of the entire State, county or municipality in which such absentee voter is a resident, as shall be ascertained and known on the 48th day preceding the election and sufficient space shall be provided thereon for such absentee voter to write in the name of and vote for any candidate for, or his personal choice for, any public office to be voted for at such election in such election district. A list of the candidates for the offices to be filled in each election district in the county, whose names are known and ascertained on the day on which the ballot is forwarded but do not appear upon said ballot, with a statement of the office for which each is a candidate, shall be forwarded with such ballot.

In the preparation of absentee ballots the name of any candidate who has been nominated for any office shall be placed upon the absentee ballot to be used in the general election to be held in said year in each election district in which he is a candidate, whether or not such candidate has accepted such nomination prior to said date; provided that he has not prior to said date declined the same.

L.1953, c. 211, p. 1588, § 14. Amended by L.1969, c. 35, § 1, eff. May 9, 1969; L.1972, c. 87, § 2, eff. July 10, 1972; L.1975, c. 74, § 1, eff. May 1, 1975; L.1985, c. 92, § 33, eff. March 26, 1985.

Historical and Statutory Notes

Effective date and application of L.1985, c. 92, see Historical Note under § 18A:9-10.

Statement: Committee statement to Senate, No. 2244-L.1985, c. 92, see § 18A:9-10.

Library References

Elections ¶159, 166, 181.
WESTLAW Topic No. 144.

C.J.S. Elections §§ 90, 130, 156 et seq.,
180, 181.

Texts and Treatises

26 Am Jur 2d, Elections §§204, 205,
253.

19:57-15. Form of absentee ballots; primary elections

Each absentee ballot to be used at any primary election for the general election to be held while this act is in effect shall, except as otherwise provided, conform to the ballot to be used at said election in the absentee voter's election district and to the form herein prescribed for absentee ballots to be used in such general elections except that it shall be so prepared that the absentee voter may indicate thereon his choice of the candidates of one political party for each of the officers to be voted upon at said election by the voters of said election district and shall be separated into party ballots, which shall all be printed upon one sheet where the voting system so allows.

Each such absentee ballot shall be plainly marked to indicate that but one party ballot is to be voted by each absentee voter and that the party ballot voted by him must conform to the name of the political party indicated by the county clerk as hereinafter provided.

If the county clerk has ascertained through investigating an absentee voter's registration record that, under the laws of this State, such voter is qualified to vote only in a certain party primary, he shall so indicate upon the primary ballot the primary party in which such voter is entitled to vote.

In the case where the county clerk has ascertained through investigating the absentee voter's registration record that such applicant is requesting a ballot to vote in the first primary for which he is eligible

after registration, the county clerk shall indicate upon the primary ballot that the voter can vote in any one of the party primaries. L.1953, c. 211, p. 1588, § 15. Amended by L.1972, c. 87, § 3, eff. July 10, 1972; L.1975, c. 90, § 1, eff. May 8, 1975; L.1977, c. 47, § 10, eff. March 24, 1977.

Library References

Elections  126(5).

WESTLAW Topic No. 144.

C.J.S. Elections § 118.

19:57-15.1. Mechanical or electronic device for count or canvass; adoption of system by county; nonconforming ballots; preparation of ballot

Notwithstanding any provision of law to the contrary, any county may adopt a system of electronic scanning, punch cards or other mechanical or electronic device, which system has been previously approved by the Secretary of State, to be used in counting or canvassing absentee ballots. The county clerk in any county adopting such a system may prepare and use absentee ballots that do not conform generally to the ballot to be used at said election to the extent that such nonconformance is necessary in the operation of the electronic or mechanical canvassing system.

In preparing the absentee ballot, the county clerk shall insert the names of the candidates on the appropriate ballot, punch card or other device in the same order in which they appear on the official ballot with full instructions to the voter as to how to mark or puncture the ballot.

L.1972, c. 87, § 1, eff. July 10, 1972.

Historical and Statutory Notes

Title of Act:

An Act concerning elections and amending and supplementing the "Absent-

tee Voting Law (1953)," approved July 1, 1953 (P.L.1953, c. 211). L.1972, c. 87.

19:57-16. Directions to be sent with ballots; envelopes

Each county clerk shall send, with each absentee ballot, printed directions for the preparation and transmitting of absentee ballots as required by this act, which shall be printed in such manner and form as the Secretary of State shall require, together with two envelopes of such sizes that one will contain the other.

The outer envelope shall be addressed to the county board of elections of the county in which is located the home address of the

person to whom the absentee ballot is sent, as certified by the county clerk. On the outside and front of each outer envelope, there shall be printed or stamped the following:

To protect your vote:

IT IS AGAINST THE LAW FOR ANYONE EXCEPT YOU THE VOTER TO MAIL OR TRANSPORT THIS BALLOT UNLESS THE ENVELOPE IS SEALED AND THE FOLLOWING IS COMPLETED:

Ballot mailed or transported by

.....

(signature of bearer)

.....

(print name of bearer)

.....

(address of bearer)

The inner envelope shall be so designed that it can be sealed after the absentee ballot has been placed therein and the flap thereof shall be of such length and size as to leave sufficient margin, after sealing, for the printing thereon of the certificate hereinafter described. The flap shall be so arranged that, after the inner envelope has been sealed, the certificate can be contained, with the said inner envelope, in the outer envelope, and that the margin containing the certificate can be detached without unsealing the inner envelope.

On the outside of each envelope in which an absentee ballot is sent to an absentee voter by the county clerk, there shall be printed or stamped the words "Official Military Service Ballot" or "Official Civilian Absentee Ballot" as the case may be. In addition, there shall be printed or stamped the following:

To protect your vote:

IT IS AGAINST THE LAW FOR ANYONE EXCEPT YOU THE VOTER TO OPEN, MARK, INSPECT OR SEAL THIS BALLOT.

However, a family member may assist you in doing so. If you are an incapacitated absentee voter, a person other than a family member may also assist you in doing so.

The reverse side of each inner envelope shall contain the following statement:

ANY PERSON MAY BE FINED AND IMPRISONED AND MAY ALSO LOSE THE RIGHT TO VOTE UNTIL RESTORED BY LAW if he attempts to vote fraudulently by absentee ballot, prevents the voting of a legal voter, certifies falsely any information, interferes

with a person's secrecy of voting, tampers with ballots or election documents or helps another person to do so.

L.1953, c. 211, p. 1589, § 16. Amended by L.1977, c. 47, § 11, eff. March 24, 1977; L.1981, c. 390, § 5, eff. Jan. 6, 1982.

Library References

Elections Ⓒ216.1.

WESTLAW Topic No. 144.

C.J.S. Elections § 210.

Notes of Decisions

Sealing ballot in envelope 1

1. Sealing ballot in envelope

Absentee ballot that was not sealed in inner envelope had to be counted in elec-

tion to fill seats on township committee; voter merely waived right to secrecy by failing to seal that ballot. In re General Election of November 5, 1991 for Office of Tp. Committee of Tp. of Maplewood, Essex County, 255 N.J.Super. 690, 605 A.2d 1164 (L.1992).

19:57-17. Certificate to be printed on margin of flap on envelopes

Upon the said margin of said flap on the envelopes to be sent to military service voters there shall be printed a certificate in the following form:

CERTIFICATE OF MILITARY ABSENTEE VOTER

I, (PRINT your name clearly), whose home address is (street address or R.D. number) (municipality), DO HEREBY CERTIFY, subject to the penalties for fraudulent voting, that

I am voting this ballot pursuant to application previously filed. I MARKED AND SEALED THIS BALLOT AND CERTIFICATE IN SECRET. However, a family member may assist you in doing so. If you are an incapacitated absentee voter, a person other than a family member may also assist you in doing so.

(SIGNATURE of voter)

Any person providing assistance shall complete the following:

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

(SIGNATURE of person providing assistance)

(PRINTED name of person providing assistance)

(address of person providing assistance)

(NOTE: MILITARY SERVICE VOTER CLAIMING MILITARY STATION AS HOME ADDRESS FOR VOTING PURPOSES MAY NOT USE MILITARY ABSENTEE BALLOT UNLESS REGISTERED TO VOTE IN THE MUNICIPALITY WHERE SUCH STATION IS LOCATED.)

Upon said margin of said flap on the inner envelopes to be sent to civilian absentee voters there shall be printed a certificate in the following form:

CERTIFICATE OF CIVILIAN ABSENTEE VOTER

I, (PRINT your name clearly), whose home address is (street address or R.D. number) (municipality), DO HEREBY CERTIFY, subject to the penalties for fraudulent voting, that I am the person who applied for the enclosed ballot. I MARKED AND SEALED THIS BALLOT AND CERTIFICATE IN SECRET. However, a family member may assist you in doing so. If you are an incapacitated absentee voter, a person other than a family member may also assist you in doing so.

(SIGNATURE of voter)

Any person providing assistance shall complete the following:

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

(SIGNATURE of person providing assistance)

(PRINTED name of person providing assistance)

(address of person providing assistance)

L.1953, c. 211, p. 1590, § 17. Amended by L.1957, c. 202, p. 713, § 4; L.1958, c. 58, p. 176, § 3; L.1959, c. 153, p. 603, § 4; L.1968, c. 238, § 6, eff. July 1, 1968; L.1970, c. 307, § 4, eff. Dec. 16, 1970; L.1975, c. 223, § 2, eff. Oct. 8, 1975; L.1977, c. 47, § 12, eff. March 24, 1977; L.1981, c. 390, § 6, eff. Jan. 6, 1982; L.1994, c. 77, § 13, eff. Jan. 1, 1995.

Notes of Decisions

Alteration of certificate 2
Mandatory nature of section 1
Voter's signature 3

certificates not be taken literally. Application of Farley, 78 N.J.Super. 349, 188 A.2d 607 (A.D.1963), certification denied 40 N.J. 220, 191 A.2d 61.

1. Mandatory nature of section

County board of elections properly exercised its powers in rejecting eight absentee ballots which lacked signed certifications; signature requirement is mandatory. Matter of General Election for the Tp. Council in the Tp. of Livingston, 247 N.J.Super. 589, 589 A.2d 1085 (L.1990).

2. Alteration of certificate

Legislature contemplated in election law that wording of civilian absentee ballot envelope flap certificate could be and should be altered by voter so that it speaks truth about him as of day he swears and indicated that this section which purports to set forth wording of

Although contrary to statement contained in acknowledgment, neither of two absentee voters, who were absent because of physical disabilities, exhibited his ballot to notary public unmarked, and then marked it in notary's presence and in presence of no other person in such manner that vote could not be seen, exhibiting of a marked ballot by each of voters to notary as his own vote constituted an equal guarantee of trustworthiness and authenticity, and votes were not invalid on that ground. Application of Moore, 57 N.J.Super. 244, 154 A.2d 631 (A.D. 1959).

3. Voter's signature

Voter's signature on "Certificate of Civilian Absentee Voter" is essential re-

Note 3

quirement of governing statute, and ballot should not be invalidated simply because another person's name has been

inadvertently printed on certificate. Petition of Kriso, 276 N.J.Super. 337, 647 A.2d 1373 (A.D.1994).

19:57-18. Repealed by L.1968, c. 238, § 7, eff. July 1, 1968

Historical and Statutory Notes

The repealed section, added by L.1953, c. 211, § 18, amended by L.1957, c. 20, § 1; L.1959, c. 153, § 5; L.1963, c. 22, § 2, related to the certificate of a physi-

cian or Christian Science practitioner certifying that a voter is confined due to sickness or physical disability which requires the use of an absentee ballot.

19:57-19. Primary election; certificate on margin of flap on inner envelopes

Upon the margin of the flap on the inner envelope forwarded with any military absentee ballot intended to be voted in any primary election for the general election, there shall be printed a certificate in the following form:

CERTIFICATE OF MILITARY ABSENTEE VOTER

I, (PRINT your name clearly), whose home address is (street address or R.D. number) (municipality), DO HEREBY CERTIFY, subject to the penalties for fraudulent voting, that I marked this ballot for the primary election of the (name of party) political party.

I am voting this ballot pursuant to application previously filed. I MARKED AND SEALED THIS BALLOT AND CERTIFICATE IN SECRET. However, a family member may assist you in doing so. If you are an incapacitated absentee voter, a person other than a family member may also assist you in doing so.

(SIGNATURE of voter)

Any person providing assistance shall complete the following:

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

(SIGNATURE of person providing assistance)

(PRINTED name of person providing assistance)

(address of person providing assistance)

Upon the margin of the flap on the inner envelope forwarded with any civilian absentee ballot intended to be voted in any primary election for the general election, there shall be printed a certificate in the following form:

CERTIFICATE OF CIVILIAN ABSENTEE VOTER

I, (PRINT your name clearly), whose home address is (street address or R.D. number) (municipality), DO HEREBY CERTIFY,

subject to the penalties for fraudulent voting, that I marked this ballot for the primary election of the (name of party) political party.

I am the person who applied for the enclosed ballot. I MARKED AND SEALED THIS BALLOT AND CERTIFICATE IN SECRET. However, a family member may assist you in doing so. If you are an incapacitated absentee voter, a person other than a family member may also assist you in doing so.

(SIGNATURE of voter)

Any person providing assistance shall complete the following:

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

(SIGNATURE of person providing assistance)

(PRINTED name of person providing assistance)

(address of person providing assistance)

L.1953, c. 211, p. 1593, § 19. Amended by L.1968, c. 238, § 8, eff. July 1, 1968; L.1975, c. 90, § 2, eff. May 8, 1975; L.1977, c. 47, § 13, eff. March 24, 1977; L.1981, c. 390, § 7, eff. Jan. 6, 1982; L.1994, c. 77, § 14, eff. Jan. 1, 1995.

Library References

Elections ¶126(6).

WESTLAW Topic No. 144.

C.J.S. Elections §§ 114, 118.

19:57-20. Military service ballots; specifications as to weight and size; postage

The military service ballots, together with the printed directions for the preparing and transmitting of the same and the inner envelopes with their certificates and the outer envelopes to be used therewith, shall conform as nearly as may be practicable to any specifications as to weight and size, which may be made by the defense and post-office departments of the United States, in connection with transporting the same.

The several county clerks shall take advantage of any provision for transmission, free of postage, of ballots and the envelopes containing the same provided by the Acts of the Congress of the United States but if no such provision is made, proper first-class postage and air-mail postage, as required by this act,¹ shall be prepaid thereon.

L.1953, c. 211, p. 1594, § 20.

¹ N.J.S.A. §§ 19:57-1 to 19:57-40.

Library References

Elections ¶216.1.

WESTLAW Topic No. 144.

C.J.S. Elections § 210.

19:57-21. Certifying names of persons receiving military service and civilian absentee ballots

Each county clerk shall, from time to time, prior to each election, certify in writing, under oath, to the commissioner of registration of the county, the names, serial numbers, if any, and home addresses of the persons to whom military service and civilian absentee ballots to be voted at such election have been delivered or forwarded pursuant to this act.¹

L.1953, c. 211, p. 1594, § 21.

¹ N.J.S.A. §§ 19:57-1 to 19:57-40.

19:57-22. Duties of commissioner of registration in regard to absentee and military service ballots

The commissioner of registration upon receipt of such information from the county clerk shall mark the applicant's duplicate voting record appearing on the signature copy registers as follows:

In the proper column provided for the recording of the number of the voter's ballot at the election in which the applicant wishes to vote, the commissioner of registration shall record therein in red ink, in the case of a civilian absentee voter, the initial "A," which shall mean that a civilian absentee ballot was delivered or mailed to the applicant by the county clerk, and in the case of a military absentee voter, the initial "M," which shall mean that a military service ballot was delivered or mailed to the applicant by the county clerk.

Whenever the commissioner of registration receives from the county clerk notice that an absentee ballot has been forwarded to a voter, during the time when the signature copy registers are in the custody of other election officials pursuant to this Title, or are in transit to or from such officials, the said commissioner shall, prior to the opening of the polls on election day, forward to each district board of elections a list of all absentee voters to whom ballots have been sent but whose duplicate voting record has not been marked in the manner herein prescribed. Such lists may be prepared in the same manner as a challenge sheet and may be included therein together with other causes for challenge. No district board of elections shall permit any person to vote whose registration record shall be marked with the initial A or M in red ink or whose name shall appear on any

list or notice furnished by the commissioner of registration to the effect that such voter has received an absentee ballot.

Whenever a civilian absentee ballot has been delivered to a voter less than 7 days prior to an election and up to 3 p.m. of the day before the election, and the signature copy registers are in the custody of other election officials, or in transit to or from such officials, the county clerk shall prepare a master list of all such ballots, which list shall be transmitted to the commissioner of registration in sufficient time to permit such commissioner to notify the appropriate municipal clerk. The municipal clerk shall notify the judge of the district election board to mark the voter's record accordingly.

L.1953, c. 211, p. 1595, § 22. Amended by L.1972, c. 31, § 3, eff. May 25, 1972; L.1994, c. 154, § 4, eff. Dec. 9, 1994.

American Law Reports

Construction and effect of absentee voters' laws, 97 ALR2d 257.

Validity of absentee voters' laws, 97 ALR2d 218.

Library References

Texts and Treatises

26 Am Jur 2d, Elections §§250, 251.

19:57-23. Marking and handling of absentee ballots by voters; return by mail or personal delivery; record

Any absentee voter shall be entitled to mark any absentee ballot, so forwarded to him, for voting at any election by indicating his choice of candidates for the offices named, and as to public questions, if any, stated thereon, in accordance with the election laws of this State, except that in such ballots to be voted in any primary election for the general election his choice shall be limited to the candidates of his political party or to any person or persons whose names are written thereon by him. When so marked, such ballot shall be placed in said inner envelope, which shall then be sealed, and the voter shall then fill in the form of certificate attached to said inner envelope, at the end of which he shall sign and print his name in his own handwriting. The inner envelope with the certificate shall then be placed in said outer envelope, which shall then be sealed.

No absentee voter shall permit any person in any way, except as provided hereafter, to unseal, mark or inspect his ballot, interfere with the secrecy of his absentee ballot vote, complete or sign the certificate, or seal the inner or outer envelope, nor shall any person do so.

An absentee voter shall be entitled to assistance from a family member in performing any of the actions above. An incapacitated absentee voter shall also be entitled to assistance from a person other than a family member in performing any of such actions. The family member or other person providing such assistance shall certify that he did assist the voter and will maintain the secrecy of the vote by both printing and signing his name in the space provided on the certificate. In no event may a candidate for election provide such assistance, nor may any person, at the time of providing such assistance, campaign or electioneer on behalf of any candidate.

Said sealed outer envelope with the inner envelope and the ballot enclosed therein shall then either be mailed with sufficient postage to the county board of elections to which it is addressed or delivered personally by the voter or a bearer designated by him to such board or its designee. Such ballot must be received by such board or its designee before 8 p.m. on the day of election.

At the time any person delivers a ballot to the county board, he shall sign a record which the county shall maintain of all absentee ballots personally delivered to it.

L.1953, c. 211, p. 1595, § 23. Amended by L.1963, c. 22, § 3; L.1968, c. 238, § 9, eff. July 1, 1968; L.1972, c. 31, § 4, eff. May 25, 1972; L.1981, c. 390, § 8, eff. Jan. 6, 1982.

Notes of Decisions

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3. Liberal construction

Legislative mandate that "act shall be liberally construed" is not a license to disregard clear and explicit provisions of absentee voting law adopted to preserve sanctity and proper functioning of the election laws. Application of Gould, 81 N.J.Super. 579, 196 A.2d 278 (L.1963).

4. Construction with federal law

New Jersey's prohibition against candidate assistance to absentee voters is matter reserved to states in connection with "local" election. In re Thirteen Ballots Cast in 1985 General Election in Burlington County, 209 N.J.Super. 286, 507 A.2d 314 (L.1985).

N.J.S.A. 19:57-23, prohibiting candidate from assisting incapacitated absentee voter, is not affected by provision of Voting Rights Act [Voting Rights Act of 1965, § 208, as amended, 42 U.S.C.A. § 1973aa-6] which would permit candidates to assist such voter, when national candidates are not running for election. In re Thirteen Ballots Cast in 1985 Gen-

1. Validity

New Jersey's prohibition against candidate assistance to absentee voters is not discriminatory, but is reasonable regulation of voting machinery, properly designed to prevent fraud. In re Thirteen Ballots Cast in 1985 General Election in Burlington County, 209 N.J.Super. 286, 507 A.2d 314 (L.1985).

2. Purpose

With regard to N.J.S.A. 19:57-23, governing absentee ballots, deterrence of fraud and maintenance of integrity of elective process are primary legislative concerns. Application of Langbaum, 201 N.J.Super. 484, 493 A.2d 580 (A.D.1985).

eral Election in Burlington County, 209 N.J.Super. 286, 507 A.2d 314 (L.1985).

5. Void ballots

Absentee ballots which were received in sealed, untampered outer envelopes and which contained complete certifications were valid and were to be counted in election for borough council, where only deficiency in ballots was failure to seal ballot in inner envelope as required by N.J.S.A. 19:57-23. Application of Langbaum, 201 N.J.Super. 484, 493 A.2d 580 (A.D.1985).

Improperly completed absentee ballots, with respect to which name of person who delivered them was neither recorded nor indicated on outside envelope, contrary to §§ 19:57-23, 19:57-37.1, were properly declared invalid. Petition of Battle, 96 N.J. 63, 473 A.2d 980 (1984).

Absence on outside envelope of printed name and signature of messenger who hand-delivered civilian absentee ballot to board of directors or failure to record name of messenger by having messenger sign "a record which the county shall maintain of all absentee ballots personally delivered to it" subject absentee ballots to invalidation. Petition of Battle, 190 N.J.Super. 232, 462 A.2d 1291 (A.D. 1983), affirmed as modified on other grounds 96 N.J. 63, 473 A.2d 980.

6. Assistance of candidates

Candidates in 1985 general election in county, in which state and local candidates, but no national candidates, were running, were not permitted to assist ab-

sentee voters, and 13 absentee ballots, which were delivered to county's board of elections with certificates attached indicating that voters had been assisted because of incapacitation, had to be rejected, where, in every case, person providing assistance had been candidate in election. In re Thirteen Ballots Cast in 1985 General Election in Burlington County, 209 N.J.Super. 286, 507 A.2d 314 (L.1985).

Statute, N.J.S.A. 19:57-23, prohibiting "a candidate for election" from assisting incapacitated voter with completion of absentee ballot, prohibits any candidate from assisting incapacitated voters with absentee ballots, even where such ballots are cast for another candidate. Gramlich v. Cottrell, 204 N.J.Super. 490, 499 A.2d 275 (L.1985).

7. Assistor certification

Failure of workers at senior citizen home, after assisting residents in completing absentee voter certificates accompanying their absentee ballots, to sign assistor certification did not invalidate the ballots, where workers had merely provided ministerial assistance in printing residents' names and addresses on top portion of absentee voter certificate after ballot had been marked and sealed in inner envelope and after resident had signed voter certificate; secrecy of votes was preserved and electoral process was not compromised. Barrett v. Monmouth County Bd. of Elections, 307 N.J.Super. 403, 704 A.2d 1053 (L.1997), affirmed 307 N.J.Super. 191, 704 A.2d 945.

19:57-24. Duties of county board of elections after receiving absentee and military service ballots

The county board of elections shall, promptly after receiving each civilian absentee ballot, remove the inner envelope, containing the ballot, from the outer envelope and shall compare the signature and the information contained on the flap of the inner envelope with the signature and information contained in the respective requests for civilian absentee ballots. In addition, as to civilian absentee ballots issued less than 7 days prior to an election, the county board of elections shall also check to establish that the absentee voter did not vote in person. The county board shall reject any such ballot unless the board is satisfied as a result of such comparison or by reference to the permanent registration books that the voter is legally entitled to vote and that the ballot conforms with the requirements of this act.

The county board of elections shall, promptly after receiving each military service ballot, remove the inner envelope, containing the ballot, from the outer envelope and ascertain through the commissioner of registration whether or not the name of the person, whose name appears following the certificate on the flap of said inner envelope, has been certified by the county clerk to the commissioner of registration of the county as a person to whom a military service ballot, to be voted at the election at which it is intended to be voted, has been forwarded pursuant to this act.

The county board shall investigate the qualifications of a military service voter under this act by comparison of the contents of said certificate with the information appearing upon the application for said military service ballot, including the signatures thereon when the military service voter's signature appears upon said application, and by comparison with the military records of the State when deemed desirable.

In the case of a military service or civilian absentee ballot to be voted at a primary election for the general election, whether or not the military service or civilian absentee voter has indicated in said certificate his intention to vote it in the primary election of any political party in which he is not entitled to vote it according to the registration records of the county, and if it shall appear from said record that he is not entitled to vote said ballot in the primary election of the political party which has been so indicated, such ballots shall be rejected.

Any absentee ballot which is received by a county board of elections shall be rejected if both the inner and outer envelopes are unsealed or if either envelope has a seal that has been tampered with.

Disputes as to the qualifications of military service or civilian absentee voters to vote or as to whether or not or how any such military or civilian absentee ballot shall be counted in such election shall be referred to the Superior Court for determination.

After such investigation the county board of elections shall detach or separate the certificate from the inner envelope containing the military service or civilian absentee ballot, unless it has been rejected by it or by the Superior Court, marking the envelope so as to identify the election district in which the ballot contained therein is to be voted as indicated by the absentee voter's home address appearing on the certificate attached to or accompanying said inner envelope and, in the case of ballots to be voted at a primary election for a general election, so as to identify the political party in the primary election of which it is to be voted.

L.1953, c. 211, p. 1596, § 24. Amended by L.1972, c. 31, § 5, eff. May 25, 1972; L.1981, c. 390, § 9, eff. Jan. 6, 1982.

Library References

Elections \S 216.1, 223.
 WESTLAW Topic No. 144.
 C.J.S. Elections $\S\S$ 209, 210.

Notes of Decisions

Jurisdiction of board 1
Rejection of ballot 3
Time of action on ballot 2

1. Jurisdiction of board

County clerk's power to reject application for absentee ballot was not exclusive, and, thus, county board of elections could reject absentee ballot that was issued on the basis of an application which did not state a reason for its issuance, even though county clerk had approved application. *Matarese v. Superintendent of Elections*, 228 N.J.Super. 148, 549 A.2d 69 (L.1988).

County board of elections had authority and jurisdiction to reject absentee ballots in dispute. *Petition of Byron*, 170 N.J.Super. 410, 406 A.2d 982 (A.D.1979), certification denied 82 N.J. 280, 412 A.2d 786.

2. Time of action on ballot

Where when civilian absentee ballots were received, the clerk of the board opened the outer envelope and compared the signature on the certificate with the list of voters and then set aside the sealed inner envelopes with their flap certificate still attached for the county board's investigation and action on election day, absentee ballots were not invalidated because the county board passed upon the certificates on election day rather than promptly after they were received. In re General Election in Bethlehem Tp., Hunterdon County, 74 N.J.Super. 448, 181 A.2d 523 (A.D.1962).

3. Rejection of ballot

Absentee ballot should not have been rejected on basis of discrepancy between voter's signature on inner envelope flap and signature of voter's husband on absentee ballot application; voter's failure to sign required application form was a "mere irregularity" which did not void her vote, and comparison of flap signature with vote's signature in permanent registration books would have revealed they were the same. In re General Election of November 5, 1991 for Office of Tp. Committee of Tp. of Maplewood, Essex County, 255 N.J.Super. 690, 605 A.2d 1164 (L.1992).

County clerk's failure to remove two residents' voting record sheets from the registration books and his improper coding of four absentee ballots did not constitute "malconduct" by clerk sufficient to void municipal council election; overruling *Magura v. Smith*, 131 N.J.Super. 395, 330 A.2d 52. *Matter of Mallon*, 232 N.J.Super. 249, 556 A.2d 1271 (A.D. 1989), certification denied 117 N.J. 166, 564 A.2d 883.

Responsibility for counting and acceptance or rejection of absentee ballots resides in county board of elections or court when board cannot decide. *Matarese v. Superintendent of Elections*, 228 N.J.Super. 148, 549 A.2d 69 (L.1988).

Omission of two voters to state reason for desiring absentee ballot was fatal and required rejection of civilian absentee voters' certificates. *Petition of Keogh-Dwyer*, 85 N.J.Super. 188, 204 A.2d 351 (A.D.1964), reversed on other grounds 45 N.J. 117, 211 A.2d 778.

19:57-24.1. Election districts for purposes of appointment of challengers

The location at which a county board of elections determines whether an absentee ballot shall be accepted or rejected shall be considered an election district for the purposes of appointment of challengers.

L.1981, c. 390, \S 12, eff. Jan. 6, 1982.

Library References

Elections ⇨216.1, 223.
WESTLAW Topic No. 144.
C.J.S. Elections §§ 209, 210.

19:57-25. Qualifications of military service voters; district in which military service ballot is to be counted

Except as provided in section 3 of this act,¹ it shall not be necessary to qualify any military service voter to vote by a military service ballot in any county, that he shall be or shall have been registered to vote in any election district of this State at the time of any election or at any other time, if his name has been certified by the county clerk of the county to the commissioner of registration of the county as hereinbefore provided. Any military service ballot returned to any county board of elections in the envelopes required by this act shall be counted in determining the result of any election in which it is to be voted in the election district indicated by the military service voter's home address appearing on the certificate or certificates attached to or accompanying the inner envelope, containing such military service ballot, if such certificate or certificates contain information which would qualify the military service voter to vote in said election district if he were registered to vote therein, and if said certificate or certificates have been filled in and purport to have been executed and sworn to in the manner required by this act and if such military service ballot has been so marked as to comply with the requirements of the election laws of this State and in computing the length of residence, in the county and State, of any military service voter the time which shall have elapsed during his absence from the election district in which he resides because of the service, work, status or relationship entitling him to vote a military service ballot shall be counted.

L.1953, c. 211, p. 1598, § 25. Amended by L.1968, c. 238, § 10, eff. July 1, 1968; L.1977, c. 47, § 14, eff. March 24, 1977.

¹ N.J.S.A. § 19:57-3.

American Law Reports

Validity of absentee voters' laws, 97
ALR2d 218.

Library References

Elections ⇨97.
WESTLAW Topic No. 144.
C.J.S. Elections § 38.

Texts and Treatises

26 Am Jur 2d, Elections §243 et seq.

19:57-26. Ballots received prior to closing of polls counted

All valid military service ballots and valid civilian absentee ballots received by the county boards prior to the time designated for the closing of the polls for each election shall be counted.

L.1953, c. 211, p. 1598, § 26.

American Law Reports

Construction and effect of absentee voters' laws, 97 ALR2d 257.

Validity of absentee voters' laws, 97 ALR2d 218.

Library References

Elections ¶216.1, 239.

WESTLAW Topic No. 144.

C.J.S. Elections §§ 210, 227.

Texts and Treatises

26 Am Jur 2d, Elections §§249, 252.

Notes of Decisions

Time of counting ballots 1

1. Time of counting ballots

Postmark date on an absentee ballot is not and cannot be controlling on question of whether to count ballot; received date is and must be conclusive to avoid fraud and provide some finality to closing of polls. *Mulcahy v. Bergen County Bd. of Elections*, 156 N.J.Super. 429, 383 A.2d 1214 (L.1978).

Even though inclement weather may have postponed delivery through the mails of several absentee ballots, they could not be counted in election for bor-

ough council seats since this section required that ballots be received by the board of election before closing of polls on election day. *Mulcahy v. Bergen County Bd. of Elections*, 156 N.J.Super. 429, 383 A.2d 1214 (L.1978).

Under this section, county board of elections was not entitled to count absentee ballots received after closing of polls, and order directing board to count absentee ballots postmarked the day before election or prior thereto and received after closing of polls was invalid. *De Flesco v. Mercer County Bd. of Elections*, 43 N.J.Super. 492, 129 A.2d 38 (A.D.1957).

19:57-27. Absentee ballots valid though not naming all candidates and though names or answers are written thereon

No absentee ballot shall be rejected or declared invalid because it does not contain all of the names of the candidates or all of the public questions to be voted for or upon in the election district in the election in which it is to be counted, and any absentee ballot shall be counted in determining the result of said election as to any office or

public question, if the designation of the office and the name of the candidate for election to said office or the answer to such public question are written thereon so as to indicate the voter's choice, and notwithstanding that such designation, name or question may be or should have been printed or such choice indicated upon such military service ballot in the regular manner.

L.1953, c. 211, p. 1599, § 27.

Notes of Decisions

Designations on ballot 1

1. Designations on ballot

For absentee write-in ballot to be counted at least office and name of candi-

date for election to such office must be designated thereon so as to indicate voter's choice and anything less renders ballot unintelligible. Application of Sweetwood, 91 N.J.Super. 496, 221 A.2d 543 (A.D.1966).

19:57-28. Person receiving absentee ballot cannot vote in person

No person who has applied for a civilian absentee ballot and to whom a civilian absentee ballot has been either delivered in person or forwarded by mail by a county clerk, shall be permitted to vote in person at the polling place in his election district on the day of the election, but such person may execute such ballot in the manner provided by this act¹ even though he is in the State on the day of the election.

L.1953, c. 211, p. 1599, § 28.

¹ N.J.S.A. §§ 19:57-1 to 19:57-40.

Library References

Elections ⇐216.1.

WESTLAW Topic No. 144.

C.J.S. Elections § 210.

Notes of Decisions

Delivery of ballot 1

1. Delivery of ballot

Resident voting by absentee ballot was not entitled to leave ballot at polls on day

of election, but rather, in order for ballot to be valid, resident was required to deliver ballot to election board before polls closed. Matter of Mallon, 232 N.J.Super. 249, 556 A.2d 1271 (A.D.1989), certification denied 117 N.J. 166, 564 A.2d 883.

19:57-29. Military service voter may present ballot in person

Any military service voter who returns to his place of residence within this State, within 10 days before such election, and who has not received a military service ballot, may appear in person before, and apply in writing to, the proper county clerk for a military service ballot, and shall be entitled to receive a military service ballot upon

being properly identified and to cast the same by presenting it in person to the proper county board of elections, properly marked, enclosed and sealed in the inner envelope provided for that purpose, with the certificate or certificates on the flap of the inner envelope duly filled in and signed at any time before the closing of the polls on the day of such election, and if the ballot is properly marked, it shall be counted at the election.

L.1953, c. 211, p. 1599, § 29. Amended by L.1968, c. 238, § 11, eff. July 1, 1968.

Notes of Decisions

Voting at polls 1

registered, and who has not applied for an absentee ballot, may vote at the polls in person. Atty.Gen.F.O.1960, No. 19.

1. Voting at polls

A citizen of New Jersey in military service who is qualified to vote, who has

19:57-30. Death of absentee or military service voter

Whenever it shall be made to appear by due proof to the county board that an absentee voter who has marked and forwarded an absentee civilian voter's ballot or military service ballot as provided in this act¹ has died prior to the opening of the polls on the day of the election such ballot shall be rejected by the county board and retained by the county board in the same manner as provided herein in cases of other rejected ballots.

L.1953, c. 211, p. 1600, § 30.

¹ N.J.S.A. §§ 19:57-1 to 19:57-40.

Notes of Decisions

Death of absentee voter 1

absent proof that Board of Elections was aware of voter's death. In re General Election of November 5, 1991 for Office of Tp. Committee of Tp. of Maplewood, Essex County, 255 N.J.Super. 690, 605 A.2d 1164 (L.1992).

1. Death of absentee voter

Absentee ballot of voter who died before election day was properly counted,

19:57-31. Canvass of absentee ballots

On the day of each election each county board of elections shall open in the presence of the commissioner of registration or his assistant or assistants the inner envelopes in which the absentee ballots, returned to it, to be voted in such election, are contained, except those containing the ballots which the board or the Superior Court has rejected, and shall remove from said inner envelopes the absentee ballots and shall then proceed to count and canvass the votes cast on such absentee ballots, but no absentee ballot shall be

counted in any primary election for the general election if the ballot of the political party marked for voting thereon differs from the designation of the political party in the primary election of which such ballot is intended to be voted as marked on said envelope by the county board of elections. Immediately after the canvass is completed, the respective county boards of election shall certify the result of such canvass to the county clerk or the municipal or district clerk or other appropriate officer as the case may be showing the result of the canvass by municipality and ward, and the votes so counted and canvassed shall be counted in determining the result of said election.

The county board of elections shall, immediately after the canvass is completed for a primary election, certify the results of the votes cast for members of the county committees to the respective municipal clerks, which votes shall be counted in determining the result of said election.

L.1953, c. 211, p. 1600, § 31. Amended by L.1977, c. 47, § 15, eff. March 24, 1977; L.1991, c. 91, § 260, eff. April 9, 1991.

Library References

Elections ⇨257.

WESTLAW Topic No. 144.

C.J.S. Elections § 235.

Texts and Treatises

26 Am Jur 2d, Elections § 251.

Notes of Decisions

Certification 2

Jurisdiction of board 4

Jurisdiction of court 3

Time of counting ballots 1

1. Time of counting ballots

Under provision of § 19:57-26 that absentee ballots received by county board of elections before closing of polls shall be counted, county board of elections was not entitled to count absentee ballots received after closing of polls, and order directing board to count absentee ballots postmarked the day before election or prior thereto and received after closing of polls was invalid. *De Flesco v. Mercer County Bd. of Elections*, 43 N.J.Super. 492, 129 A.2d 38 (A.D.1957).

2. Certification

Certification by county board of elections of results of military and civilian

absentee ballots cast should show votes by ward and district rather than total for entire county. *Atty.Gen.F.O.1957, No. 21.*

3. Jurisdiction of court

Under this section providing that once absentee ballots have been removed from the inner envelopes, the county board of elections shall count and canvass the votes cast, it is only during such process that disputes "as to whether or not or how any such * * * absentee ballot shall be counted" can arise and the County Court's function of resolving disputes as to qualifications of absentee voters is over as of the time the certificates are removed. *In re General Election in Bethlehem Tp., Hunterdon County*, 74 N.J.Super. 448, 181 A.2d 523 (A.D.1962).

4. Jurisdiction of board

County board of elections had authority and jurisdiction to reject absentee ballots in dispute. Petition of Byron, 170

N.J.Super. 410, 406 A.2d 982 (A.D.1979), certification denied 82 N.J. 280, 412 A.2d 786.

19:57-32. Duplicate voting records, marking of

As soon as practicable after such election, the commissioner of registration shall cause to be marked all duplicate voting records which have not been marked with a red "A" or "M" in accordance with this act, to show that an absentee ballot was delivered or forwarded to the respective registered voters. For each civilian absentee ballot, and for each military absentee ballot cast by a military service voter who is required under section 3 of this act¹ to be registered in the municipality where he intends to cast such absentee ballot, that has been voted, received and counted, the commissioner of registration shall also, by reference to the certificates removed from the inner envelopes of such ballots, cause to be written or stamped the word "Voted" in the space provided in the duplicate voting record for recording the ballot number of the voter's ballot in such election, and in the case of a primary election for the general election he shall also cause to be written or stamped in the proper space of the record of voting form the first three letters of the name of the political party primary in which such ballot was voted. The record of voting forms in the original permanent registration binders shall be conformed to the foregoing entries in the duplicate forms.

L.1953, c. 211, p. 1600, § 32. Amended by L.1977, c. 47, § 16, eff. March 24, 1977; L.1994, c. 154, § 5, eff. Dec. 9, 1994.

¹ N.J.S.A. § 19:57-3.

Library References

Elections ¶212.

WESTLAW Topic No. 144.

C.J.S. Elections § 197.

19:57-33. Requests, applications, ballots and certificates to be kept one year; impounding

The county board of elections shall keep, for a period of 1 year, all of the requests and applications for absentee ballots, all voted absentee ballots, and all of the certificates which have been detached or separated by them from said inner envelopes, and all inner envelopes together with their certificates, and together with their contents, which have not been opened because the county board or the Superior Court rejected them. Specific power is hereby granted to the superintendent of elections in counties having a superintendent of

elections and the prosecutor in all other counties to impound all absentee ballots whenever he shall deem such action to be necessary. L.1953, c. 211, p. 1601, § 33. Amended by L.1955, c. 222, p. 870, § 1; L.1991, c. 91, § 261, eff. April 9, 1991.

Library References

Elections ¶255.

WESTLAW Topic No. 144.

C.J.S. Elections § 234.

Notes of Decisions

Jurisdiction of board 1

1. Jurisdiction of board

County board of elections had authority and jurisdiction to reject absentee ballots

in dispute. Petition of Byron, 170 N.J. Super. 410, 406 A.2d 982 (A.D.1979), certification denied 82 N.J. 280, 412 A.2d 786.

19:57-34. Emergency voting form; registration

Any elector who has been in the military service (including his spouse and dependents) or a civilian attached to or serving with the Armed Forces of the United States (including his spouse and dependents who accompanied him) or a patient in any such veterans' hospital, but who has been discharged or released from such service or discharged from said hospital too late to register at the last registration day before any election, may obtain an emergency voting form at the office of the proper commissioner of registration if he has been previously permanently registered, and upon presentation of such emergency voting form to the proper district board he shall be permitted to vote. In the event that he has not been permanently registered, upon exhibiting his discharge or certificate of service to such commissioner of registration such commissioner shall require such discharged or released elector to register notwithstanding any provisions of law prohibiting the taking of registrations at such time, before issuing such emergency voting form.

L.1953, c. 211, p. 1601, § 34. Amended by L.1968, c. 238, § 12, eff. July 1, 1968.

Library References

Elections ¶106, 216.1.

WESTLAW Topic No. 144.

C.J.S. Elections §§ 39, 46, 210.

Texts and Treatises

25 Am Jur 2d, Elections § 105.

19:57-35. Powers of county board, clerk, superintendent and commissioner over absentee voting

The county board of elections, the county clerk, the superintendent of elections and the commissioner of registration shall exercise the same powers over absentee voting as over other voting in elections except as otherwise provided in this act.

L.1953, c. 211, p. 1602, § 35. Amended by L.1955, c. 222, p. 870, § 2.

Library References

Elections Ⓒ54.

WESTLAW Topic No. 144.

C.J.S. Elections § 54 et seq.

Notes of Decisions

Rejection of ballots 1

in dispute. *Petition of Byron*, 170 N.J.Super. 410, 406 A.2d 982 (A.D.1979), certification denied 82 N.J. 280, 412 A.2d 786.

1. Rejection of ballots

County board of elections had authority and jurisdiction to reject absentee ballots

19:57-36. Validity of election not affected by irregularities in absentee ballots

No election shall be held to be invalid by reason of any irregularity or failure in the preparation or forwarding of any absentee ballots pursuant to the provisions of this act.¹

L.1953, c. 211, p. 1602, § 36.

¹ N.J.S.A. §§ 19:57-1 to 19:57-40.

American Law Reports

Construction and effect of absentee voters' laws, 97 ALR2d 257.

Validity of absentee voters' laws, 97 ALR2d 218.

Library References

Elections Ⓒ227(7).

WESTLAW Topic No. 144.

C.J.S. Elections §§ 201, 214.

Texts and Treatises

26 Am Jur 2d, Elections §§250, 252.

Notes of Decisions

Validity of ballot 1

the Board of Chosen Freeholders had been transposed on such ballots. Op. Atty.Gen., Nov. 1, 1950, No. 71.

1. Validity of ballot

Military service ballots were not rendered invalid by fact that names of two of

19:57-37. Violations

Any person who knowingly violates any of the provisions of this act, or who, not being entitled to vote thereunder, fraudulently votes or attempts to vote thereunder or enables or attempts to enable another person, not entitled to vote thereunder, to vote fraudulently thereunder or who prevents or attempts to prevent by fraud the voting of any person legally entitled to vote under this act, or who shall knowingly certify falsely in any paper required under this act, or who, at any time, tampers with any ballot or document used in an election or interferes with the secrecy of the voting of any person shall be guilty of a crime of the fourth degree, and upon conviction thereof shall be subject, in addition to such other penalties as are authorized by law, to disenfranchisement unless and until pardoned or restored by law to the right of suffrage.

Any person who aids and abets another in violating any of the provisions of this section shall be guilty of a crime of the fourth degree and upon conviction thereof shall be subject, in addition to such other penalties as are authorized by law, to disenfranchisement unless and until pardoned or restored by law to the right of suffrage.

L.1953, c. 211, p. 1602, § 37. Amended by L.1964, c. 7, § 7; L.1981, c. 390, § 10, eff. Jan. 6, 1982.

Library References

Elections ¶309 et seq.

WESTLAW Topic No. 144.

C.J.S. Elections §§ 324, 334.

19:57-37.1. Delivery by person other than voter to county board or postal box

No person shall take an absentee ballot from a voter or other person having custody of it for the purpose of delivering it to the county board of elections or a postal box or post office, nor shall any voter permit any person to do so, unless the ballot is sealed in the outer envelope and the person who shall transport or deliver it first signs and prints his name on the outer envelope. No other person shall attempt to do any of the foregoing.

L.1981, c. 390, § 11, eff. Jan. 6, 1982.

Historical and Statutory Notes

Title of Act: 1953 (P.L.1953, c. 211), and repealing
An Act concerning absentee voting, amending and supplementing the "Absentee Voting Law (1953)," approved July 1, R.S. 19:34-58 through R.S. 19:34-61. L.1981, c. 390.

Library References

Elections \Rightarrow 216.1.
WESTLAW Topic No. 144.
C.J.S. Elections \S 210.

Notes of Decisions

Fraud or abuse 2
Void ballots 1

1. Void ballots

Ballots simultaneously delivered to board of elections by same messenger, who failed to complete outer envelopes in conformity with governing statute, were properly rejected; candidate failed to present any evidence regarding circumstances under which ballots were transmitted by messenger, reasons why messenger and voters failed to fill out envelopes, or identity of messenger and messenger's connection with either voters or candidates. Petition of Kriso, 276 N.J.Super. 337, 647 A.2d 1373 (A.D. 1994).

Absent express legislative directive that violation of election law requires invalidation of ballot, court must determine whether, under circumstances, ballot should be invalidated to effectuate legislative intent in establishing particular voting requirement. Petition of Kriso, 276 N.J.Super. 337, 647 A.2d 1373 (A.D. 1994).

Improperly completed absentee ballots, with respect to which name of person who delivered them was neither recorded nor indicated on outside envelope, contrary to $\S\S$ 19:57-23, 19:57-37.1, were

properly declared invalid. Petition of Battle, 96 N.J. 63, 473 A.2d 980 (1984).

Absence on outside envelope of printed name and signature of messenger who hand-delivered civilian absentee ballot to board of directors or failure to record name of messenger by having messenger sign "a record which the county shall maintain of all absentee ballots personally delivered to it" subject absentee ballots to invalidation. Petition of Battle, 190 N.J.Super. 232, 462 A.2d 1291 (A.D. 1983), affirmed as modified on other grounds 96 N.J. 63, 473 A.2d 980.

2. Fraud or abuse

Circumstances of mailing of four ballots which were not enclosed in outer envelopes completed in conformity with governing statute did not pose danger of fraud or other electoral abuse that would warrant their invalidation; in case of three ballots, no one other than close family member was involved in mailing ballots and failure to properly fill out outer envelopes was purely inadvertent, and in case of fourth ballot, voter's failure to note on outer envelope her use of corporate messenger service to carry ballot from Japan to United States resulted from innocent misunderstanding of election laws, and messenger service had no interest in election. Petition of Kriso, 276 N.J.Super. 337, 647 A.2d 1373 (A.D. 1994).

19:57-38. Repeal

The following acts are hereby repealed:

"An act to provide for voting by persons in active service, as members of any branch or department of the United States Army, Navy or Marine Corps, or as reservists, absent from their respective

places of residence and undergoing training under Army or Navy direction at places other than those of such persons' respective residences, and persons having served as soldiers, sailors, marines or nurses in the armed forces of the United States in any war, who are patients in veterans' hospitals located in places other than those of their respective residences, who prior to entering such service or being admitted as such patients were residents of this State and who possess the constitutional qualifications of legal voters of this State and are not otherwise disqualified to vote in this State, and repealing 'An act to afford certain voters of this State, who are in the military service and in certain services auxiliary to and associated therewith, and in certain veterans' hospitals, in time of war, an opportunity to vote in certain elections to be held in this State notwithstanding that such voters may be absent on election day from the respective election districts in which they reside, and supplementing Title 19 of the Revised Statutes,' approved February twelfth, one thousand nine hundred and forty-five (P.L.1945, c. 11), and supplementing Title 19 of the Revised Statutes," approved February eighteenth, one thousand nine hundred and forty-eight (P.L.1948, c. 1);¹

"A supplement to 'An act to provide for voting by persons in active service, as members of any branch or department of the United States Army, Navy or Marine Corps, or as reservists, absent from their respective places of residence and undergoing training under Army or Navy direction at places other than those of such persons' respective residences, and persons having served as soldiers, sailors, marines or nurses in the Armed Forces of the United States in any war, who are patients in veterans' hospitals located in places other than those of their respective residences, who prior to entering such service or being admitted as such patients were residents of this State and who possess the constitutional qualifications of legal voters of this State and are not otherwise disqualified to vote in this State, and repealing 'An act to afford certain voters of this State, who are in the military service and in certain services auxiliary to and associated therewith, and in certain veterans' hospitals, in time of war, an opportunity to vote in certain elections to be held in this State notwithstanding that such voters may be absent on election day from the respective election districts in which they reside, and supplementing Title 19 of the Revised Statutes,' approved February twelfth, one thousand nine hundred and forty-five (P.L.1945, c. 11), and supplementing Title 19 of the Revised Statutes,' approved February eighteenth, one thousand nine hundred and forty-eight (P.L.1948, c. 1)," approved April twenty-eighth, one thousand nine hundred and forty-nine (P.L.1949, c. 54);²

"An act to amend 'An act to provide for voting by persons in active service, as members of any branch or department of the United

States Army, Navy or Marine Corps, or as reservists, absent from their respective places of residence and undergoing training under Army or Navy direction at places other than those of such persons' respective residences, and persons having served as soldiers, sailors, marines or nurses in the Armed Forces of the United States in any war, who are patients in veterans' hospitals located in places other than those of their respective residences, who prior to entering such service or being admitted as such patients were residents of this State and who possess the constitutional qualifications of legal voters of this State and are not otherwise disqualified to vote in this State, and repealing "An act to afford certain voters of this State, who are in the military service and in certain services auxiliary to and associated therewith, and in certain veterans' hospitals, in time of war, an opportunity to vote in certain elections to be held in this State notwithstanding that such voters may be absent on election day from the respective election districts in which they reside, and supplementing Title 19 of the Revised Statutes," approved February twelfth, one thousand nine hundred and forty-five (P.L.1945, c. 11), and supplementing Title 19 of the Revised Statutes,' approved February eighteenth, one thousand nine hundred and forty-eight (P.L.1948, c. 1)," approved April twenty-eighth, one thousand nine hundred and forty-nine (P.L.1949, c. 53);³

"An act to amend 'A supplement to "An act to provide for voting by persons in active service, as members of any branch or department of the United States Army, Navy or Marine Corps, or as reservists, absent from their respective places of residence and undergoing training under Army or Navy direction at places other than those of such persons' respective residences, and persons having served as soldiers, sailors, marines or nurses in the Armed Forces of the United States in any war, who are patients in veterans' hospitals located in places other than those of their respective residences, who prior to entering such service or being admitted as such patients were residents of this State and who possess the constitutional qualifications of legal voters of this State and are not otherwise disqualified to vote in this State, and repealing 'An act to afford certain voters of this State, who are in the military service and in certain services auxiliary to and associated therewith, and in certain veterans' hospitals, in time of war, an opportunity to vote in certain elections to be held in this State notwithstanding that such voters may be absent on election day from the respective election districts in which they reside, and supplementing Title 19 of the Revised Statutes,' approved February twelfth, one thousand nine hundred and forty-five (P.L.1945, c. 11), and supplementing Title 19 of the Revised Statutes," approved February eighteenth, one thousand nine hundred and forty-eight (P.L. 1948, c. 1),' approved April twenty-eighth, one thousand nine hun-

dred and forty-nine (P.L.1949, c. 54)," approved May twenty-sixth, one thousand nine hundred and fifty (P.L.1950, c. 146).⁴

The repeal of the foregoing acts shall not be construed to revive any act or acts repealed by such acts.

L.1953, c. 211, p. 1602, § 38.

¹ N.J.S.A. §§ 19:56-1 to 19:56-27.

² N.J.S.A. §§ 19:56-28 to 19:56-47.

³ N.J.S.A. §§ 19:56-1, 19:56-10, 19:56-17.

⁴ N.J.S.A. §§ 19:56-32, 19:56-38, 19:56-42.

19:57-39. Partial invalidity

If any clause, sentence, paragraph, section or part of this act ¹ shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

L.1953, c. 211, p. 1605, § 39.

¹ N.J.S.A. §§ 19:57-1 to 19:57-40.

19:57-40. Effective date

This act ¹ shall take effect July first, one thousand nine hundred and fifty-three.

L.1953, c. 211, p. 1605, § 40.

¹ N.J.S.A. §§ 19:57-1 to 19:57-40.

CHAPTER 58

PRESIDENTIAL BALLOT LAW

Section

- 19:58-1. Short title.
- 19:58-2. Definitions.
- 19:58-3. Persons entitled to qualify and vote for presidential electors.
- 19:58-4. Certificate of disqualification of removed resident; authority for determination.
- 19:58-5. Obtaining application form for presidential ballot.
- 19:58-6. Preparation of application forms for presidential ballots and forms of affidavits of residence; color of paper.
- 19:58-7. Repealed.
- 19:58-8. Application for presidential ballot by removed resident; form and contents.
- 19:58-9. Time and manner of application; certificate of registration officer in election district in which removed resident resides.
- 19:58-10. Form of presidential ballot.
- 19:58-11. Duty of county clerk to furnish presidential ballots, inner and outer envelopes, and directions; payment of expenses.
- 19:58-12. List of applicants; inspection.
- 19:58-13. Examination and approval of qualifications of applicant; investigations.
- 19:58-14. Transfer of permanent registration forms of removed residents.
- 19:58-15. Delivery of ballots; deadline for applications.
- 19:58-16. Forwarding applications and accompanying certificates to county board of elections; list of applications.
- 19:58-17. Directions to be sent with ballots; envelopes.
- 19:58-18. Repealed.
- 19:58-19. Certificate to be printed on margin of flap on envelopes; removed residents.
- 19:58-20. Certification of names and addresses of recipients of ballots.
- 19:58-21. Marking and handling of presidential ballots by voters.
- 19:58-22. Mailing of ballots to county board of elections.
- 19:58-23. Duties of county board of elections after receiving ballots.
- 19:58-24. Repealed.
- 19:58-25. Ballots received prior to closing of polls counted; validity of ballots notwithstanding absence of voter's name on certificate.
- 19:58-26. Person receiving presidential ballot not to vote in person.
- 19:58-27. Death of voter.
- 19:58-28. Canvass of presidential ballots.
- 19:58-29. Duplicate voting records, marking of.
- 19:58-30. Affidavits of residence, applications, ballots and certificates to be kept one year; impounding.
- 19:58-31. Powers of county board, clerk, superintendent and commissioner over voting by presidential ballot.
- 19:58-32. Validity of election not affected by irregularities.
- 19:58-33. Violations; penalties.

Cross References

Absentee voting law, see § 19:57-1 et seq.

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19:58-1. Short title

This act shall be known as and may be cited as the "Presidential Ballot Law (1964)."

L.1964, c. 134, § 1.

Historical and Statutory Notes**Title of Act:**

An Act concerning elections, authorizing certain persons to vote in elections held for the election of electors for President and Vice-President of the United

States in this State and supplementing the "Absentee Voting Law (1953)" approved July 1, 1953 (P.L.1953, c. 211).
L.1964, c. 134.

19:58-2. Definitions

As used in this act unless the context otherwise indicates the following terms shall have the following meaning:

"Removed resident" means a person, who was formerly a resident of one of the counties of this State but who has, or shall have, removed to another state, the District of Columbia, Puerto Rico, Guam, the Virgin Islands or to another county within this State, who has registered as a voter in the county of his former residence in this State at the time of his removal therefrom, and who by reason of an insufficient period of residence in the state or the county, to which he has or shall have removed, will not be able to qualify to vote at a Presidential Election to be held in such state or county or elsewhere, except as he may be qualified to vote in this State, or in such other county of this State, for the election of electors for President and Vice-President of the United States, pursuant to this act.

"Presidential Election" means an election to be held for the election of electors for President and Vice-President of the United States.

"Presidential ballot" means a ballot to be cast at a Presidential Election pursuant to this act.

L.1964, c. 134, § 2. Amended by L.1972, c. 30, § 1, eff. May 25, 1972; L.1976, c. 24, § 1, eff. May 7, 1976.

Library References

Statutes ☞179.

WESTLAW Topic No. 361.

C.J.S. Statutes § 315.

Texts and Treatises

26 Am Jur 2d, Elections §§249 to 252.

19:58-3. Persons entitled to qualify and vote for presidential electors

Any removed resident shall be entitled to qualify and vote for electors for President and Vice-President of the United States in any Presidential Election to be held in this State in the manner provided in this act.

L.1964, c. 134, § 3. Amended by L.1976, c. 24, § 2, eff. May 7, 1976.

Library References

Elections ☞72, 73.

WESTLAW Topic No. 144.

C.J.S. Elections §§ 20, 21.

Texts and Treatises

25 Am Jur 2d, Elections § 69.

19:58-4. Certificate of disqualification of removed resident; authority for determination

Any certificate filed by an applicant for a Presidential ballot as to the disqualification of a removed resident, who does not reside in this State, to vote for electors for President and Vice-President of the United States in the election district in which he resides shall be sufficient authority for said clerks and boards to make any determination in connection with the subject matter of such certificate.

L.1964, c. 134, § 4. Amended by L.1972, c. 30, § 2, eff. May 25, 1972; L.1976, c. 24, § 3, eff. May 7, 1976.

Library References

Elections ⌘59 et seq.
 WESTLAW Topic No. 144.
 C.J.S. Elections § 15 et seq.

Notes of Decisions

Federal law 1

1. Federal law

Federal Voting Rights Act Amendments of 1970 requires no more than 1972 state

amendment to Presidential Ballot Law which provides for registration up to 30 days before a Presidential election and for voting for President and Vice-President by use of absentee ballot. *Edelstein v. Ferrell*, 120 N.J.Super. 583, 295 A.2d 390 (L.1972).

19:58-5. Obtaining application form for presidential ballot

An application form for a Presidential ballot may be obtained from the clerk of the municipality, or the county clerk of the county, in which such applicant was last registered to vote in this State prior to the date of such election.

L.1964, c. 134, § 5. Amended by L.1976, c. 24, § 4, eff. May 7, 1976.

Library References

Elections ⌘218.
 WESTLAW Topic No. 144.
 C.J.S. Elections § 204.

19:58-6. Preparation of application forms for presidential ballots and forms of affidavits of residence; color of paper

Application forms for Presidential ballots to be made by removed residents and forms of affidavits of residence shall be prepared by the county clerk and shall be printed on paper of a different color from that used for applications for military service and civilian absentee ballots and sufficient quantities thereof shall be furnished by the county clerk to each municipal clerk in his county not later than August 1 preceding such election.

L.1964, c. 134, § 6. Amended by L.1976, c. 24, § 5, eff. May 7, 1976.

Library References

Elections ⌘218.
 WESTLAW Topic No. 144.
 C.J.S. Elections § 204.

19:58-7. Repealed by L.1976, c. 24, § 6, eff. May 7, 1976**Historical and Statutory Notes**

The repealed section, added by L.1964, c. 134, § 7, related to the affidavit of residence of an applicant for a presidential ballot.

19:58-8. Application for presidential ballot by removed resident; form and contents

An application for a Presidential ballot to be made by a removed resident shall be in substantially the following form:

**APPLICATION FOR PRESIDENTIAL BALLOT—
REMOVED RESIDENT**

I, the undersigned, do hereby apply for a Presidential ballot to be voted at the election to be held on
(date of election)

and do hereby certify that:

1. I am a citizen of the United States;
2. I was born on
(date of birth)

3. I reside atin
(street and number or R.D. route)

..... in
(name of city or municipality) (name of county)
county in the State of
(name of state, territory, commonwealth,
or District of Columbia)

and I have resided at this address since my removal from my former address in New Jersey and expect to continue to reside there until and on the date of said election;

4. I formerly resided and was registered as a voter at
(street

..... in
W and number or R.D. route) (name of city or municipality)
in county in New Jersey and I continued to
(name of county)

reside there until my removal to my present address;

5. I am unable to vote in said election at any place other than that of my former residence in New Jersey, where I believe that I am eligible to vote for electors for President and Vice-President of the United States by a Presidential ballot.

..... Applicant
(signature)

..... Applicant
(print name here)

L.1964, c. 134, § 8. Amended by L.1972, c. 30, § 30, eff. May 25, 1972;
L.1976, c. 24, § 7, eff. May 7, 1976.

Library References

Elections Ⓒ218.
WESTLAW Topic No. 144.
C.J.S. Elections § 204.

19:58-9. Time and manner of application; certificate of registration officer in election district in which removed resident resides

Applications for Presidential ballots shall be made, as prescribed by this act, to the clerk of the county, in which the ballot is to be voted, in person or by mail not later than 7 days preceding the date upon which the election, in which such ballots are to be voted, is to be held.

Each application for a Presidential ballot by a removed resident, who does not reside in this State shall be accompanied by a certificate of the commissioner of registration or other officer in charge of registration of voters in the election district in which the applicant resides, certifying that the applicant will not be entitled to vote for the electors for President and Vice-President of the United States in such election district, at the election at which such ballot is to be voted, by reason of an insufficient period of residence in the state to which he has so removed.

L.1964, c. 134, § 9. Amended by L.1972, c. 30, § 4, eff. May 25, 1972;
L.1976, c. 24, § 8, eff. May 7, 1976.

Library References

Elections Ⓒ218.
WESTLAW Topic No. 144.
C.J.S. Elections § 204.

19:58-10. Form of presidential ballot

The county clerk shall prescribe the form of the Presidential ballots, which shall in all respects conform with the provisions of this act and shall be of such character that they can be voted only for the election of electors for President and Vice-President of the United States nominated in this State and shall be plainly marked "Presidential Ballot."

L.1964, c. 134, § 10.

Library References

Elections ⌘164 et seq.
WESTLAW Topic No. 144.
C.J.S. Elections § 149.

19:58-11. Duty of county clerk to furnish presidential ballots, inner and outer envelopes, and directions; payment of expenses

Each county clerk shall cause to be printed a sufficient number of Presidential ballots for each Presidential election to be held in this State and along with all such ballots there shall also be furnished by the county clerk inner and outer envelopes which shall be of different color than those used to enclose military service and civilian absentee ballots, and also printed directions for the preparation and transmitting of such ballots and all expenses of printing and mailing such ballots shall be paid in the same manner as other expenses of such election are paid.

L.1964, c. 134, § 11.

Library References

Elections ⌘218.
WESTLAW Topic No. 144.
C.J.S. Elections § 204.

19:58-12. List of applicants; inspection

Each county clerk, upon receipt of applications for Presidential ballots for removed residents shall make a list of them according to the municipalities of the addresses, or former addresses, in this State of the voters making such applications, which list shall be open to examination at all times by the county board of elections, the commissioner of registration, and the superintendent of elections in counties in which there is a superintendent of elections, of the county.

L.1964, c. 134, § 12. Amended by L.1976, c. 24, § 9, eff. May 7, 1976.

Library References

Elections ⌘218.
WESTLAW Topic No. 144.
C.J.S. Elections § 204.

19:58-13. Examination and approval of qualifications of applicant; investigations

Upon receipt of any application for a Presidential ballot, the county clerk shall make an examination, from any available information, to

determine whether or not such applicant is qualified to vote a Presidential ballot as applied for and in the case of an application by a removed resident, he shall, with the co-operation of the commissioner of registration of the county, cause the signature of the applicant appearing upon the application to be compared with the signature of said person appearing upon his permanent registration forms.

If, after such examination, the county clerk is satisfied that the applicant is entitled to such a Presidential ballot, he shall mark on the application "Approved," but otherwise he shall mark on the application "Disapproved" and shall so notify the applicant stating the reason therefor but no application for a Presidential ballot shall be disapproved because the name of the applicant is not printed thereon, if the signature is legible.

The commissioner of registration and the superintendent of elections in counties having superintendents of elections may investigate any application for any Presidential ballot.

L.1964, c. 134, § 13.

Library References

Elections Ⓒ218.

WESTLAW Topic No. 144.

C.J.S. Elections § 204.

19:58-14. Transfer of permanent registration forms of removed residents

The county clerk, upon receipt of an application for a Presidential ballot, based upon the applicant's removal from this State to another state, the District of Columbia, Puerto Rico, Guam, or the Virgin Islands, or from one county of this State to another county of this State, shall notify the commissioner of registration thereof and the commissioner of registration shall thereupon transfer the applicant's permanent registration forms to a Presidential ballot file until after the election and then to the inactive file.

L.1964, c. 134, § 14. Amended by L.1972, c. 30, § 5, eff. May 25, 1972; L.1976, c. 24, § 10, eff. May 7, 1976.

Library References

Elections Ⓒ218.

WESTLAW Topic No. 144.

C.J.S. Elections § 204.

19:58-15. Delivery of ballots; deadline for applications

Each county clerk shall deliver a Presidential ballot for use under this act, to each applicant, whose application therefor has been so approved, in person, or by forwarding the same by first-class mail, in a sealed envelope, to the applicant's present address as given in the application, if said application is received not less than 8 days prior to the day fixed for the holding of the election in which such ballot is to be voted.

Such ballots shall be forwarded as soon as practicable after the receipt and approval of the applications therefor, and if to be forwarded to persons at an address located without the limits of the 50 States and the District of Columbia by mail, they shall be forwarded by air mail.

L.1964, c. 134, § 15.

Library References

Elections Ⓒ218.

WESTLAW Topic No. 144.

C.J.S. Elections § 204.

19:58-16. Forwarding applications and accompanying certificates to county board of elections; list of applications

Each county clerk, after processing the applications for Presidential ballots, in the manner prescribed by this act, shall forward such applications, including those disapproved, together with any certificates accompanying the same, to the county board of elections and he shall keep a list of such applications showing the disposition thereof, which shall be made available to the public and all election officers charged with the duty of administering this act.

L.1964, c. 134, § 16.

Library References

Elections Ⓒ218.

WESTLAW Topic No. 144.

C.J.S. Elections § 204.

19:58-17. Directions to be sent with ballots; envelopes

Each county clerk shall send, with each Presidential ballot, appropriate printed directions for the preparation and transmission of such ballot, together with an inner and outer envelope of the character described in the act hereby supplemented in the case of civilian absentee ballots, except that there shall be printed on each inner envelope a legend which shall read "Removed Resident—Presidential Ballot".

L.1964, c. 134, § 17. Amended by L.1976, c. 24, § 11, eff. May 7, 1976.

Library References

Elections §§ 218, 219, 220.

WESTLAW Topic No. 144.

C.J.S. Elections §§ 204, 206, 208.

19:58-18. Repealed by L.1976, c. 24, § 12, eff. May 7, 1976**Historical and Statutory Notes**

The repealed section, added by L.1964, c. 134, § 18, amended by L.1968, c. 238, § 13, set forth the form and contents of the certificate to be printed on the margin of the flap on envelopes sent to a new resident.

19:58-19. Certificate to be printed on margin of flap on envelopes; removed residents

Upon the said margin of said flap on the inner envelope to be sent to a removed resident there shall be printed a certificate in affidavit form substantially as follows: State of County of, or (if applicable) Country of

I, the undersigned, do hereby certify that:

1. I am a citizen of the United States;

2. I was born on (date of birth)

3. I reside at (street and number or R.D. route) in in ¹ county in the (name of city or municipality) (name of county) State of and I have resided (name of state, territory, commonwealth, or District of Columbia) at this address since my removal from my former address in New Jersey and expect to continue to reside there until and on the date of said election;

4. I formerly resided at (street and number or R.D. route) in in ¹ county in (name of city or municipality) (name of county) New Jersey and I was registered as a voter, and continued to reside at said address until my removal to my present address;

5. Because of the insufficient period of my residence at my present address,

I am unable to vote at the election to be held on but I (date of election) believe that I am eligible to vote at my former residence in the State of New Jersey for electors for President and Vice-President of the United States at such election.

Applicant (SIGNATURE) Applicant (PRINT name here)

L.1964, c. 138, § 19. Amended by L.1968, c. 238, § 14, eff. July 1, 1968; L.1972, c. 30, § 6, eff. May 25, 1972; L.1976, c. 24, § 13, eff. May 7, 1976; L.1994, c. 77, § 15, eff. Jan. 1, 1995.

¹ So in original.

Library References

Elections ⇨218.

WESTLAW Topic No. 144.

C.J.S. Elections § 204.

19:58-20. Certification of names and addresses of recipients of ballots

Each county clerk shall, from time to time, prior to each Presidential election, certify in writing, under oath, to the commissioner of registration of the county, the names and home addresses of the persons to whom Presidential ballots to be voted at such election have been delivered or forwarded pursuant to this act.

L.1964, c. 134, § 20.

Library References

Elections ⇨218.

WESTLAW Topic No. 144.

C.J.S. Elections § 204.

19:58-21. Marking and handling of presidential ballots by voters

Any voter shall be entitled to mark any Presidential ballot, so forwarded to him, for voting at any election by indicating his choice of candidates for the offices named. When so marked, such ballot shall be placed in said inner envelope, which shall then be sealed, and the voter shall then fill in the form of certificate attached to said inner envelope, at the end of which he shall sign and print his name in his own handwriting. The inner envelope with the certificate shall then be placed in said outer envelope, which shall then be sealed.

L.1964, c. 134, § 21. Amended by L.1968, c. 238, § 15, eff. July 1, 1968.

Library References

Elections ⇨219.

WESTLAW Topic No. 144.

C.J.S. Elections § 206.

19:58-22. Mailing of ballots to county board of elections

Said sealed outer envelope with the inner envelope and the ballot enclosed therein, shall then be mailed with sufficient postage to the county board of elections to which it is addressed, or shall be presented in person to the county board of elections at the office of said board.

L.1964, c. 134, § 22.

Library References

Elections § 215 et seq.

WESTLAW Topic No. 144.

C.J.S. Elections § 204 et seq.

19:58-23. Duties of county board of elections after receiving ballots

The county board of elections shall, promptly after receiving each Presidential ballot, remove the inner envelope, containing the ballot, from the outer envelope and shall compare the signature and the information contained on the flap of the inner envelope with the signature and information contained in the application for the ballot together with the affidavit of residence, if any, accompanying the same. The county board shall reject any such ballot unless the board is satisfied as a result of such comparison and any other source of information available that the voter is legally entitled to vote such a ballot and that the ballot conforms with the requirements of this act. Disputes as to the qualifications of voters to vote Presidential ballots or as to whether or not or how such Presidential ballots shall be counted in such election shall be referred to the Superior Court of the county for determination.

After such investigation the county board of elections shall detach or separate the certificate from the inner envelope containing the Presidential ballots, unless it has been rejected by it or by the Superior Court, marking the envelope so as to identify the election district in which the ballot contained therein is to be voted as indicated by the voter's present or former address in this State on the certificate attached to or accompanying said inner envelope.

L.1964, c. 134, § 23. Amended by L.1991, c. 91, § 262, eff. April 9, 1991.

Library References

Elections § 240 et seq.

WESTLAW Topic No. 144.

C.J.S. Elections § 223 et seq.

19:58-24. Repealed by L.1976, c. 24, § 14, eff. May 7, 1976

Historical and Statutory Notes

The repealed section, added by L.1964, c. 134, § 24, amended by L.1968, c. 238, § 16, related to qualification on new resident to vote by presidential ballot and to

count of presidential ballot returned to any county board of elections by a new resident.

19:58-25. Ballots received prior to closing of polls counted; validity of ballots notwithstanding absence of voter's name on certificate

All valid Presidential ballots received by the county boards prior to the time designated for the closing of the polls for each election shall be counted and no Presidential ballot shall be rejected or declared invalid because the voter's name is not printed on the certificate upon the flap of the inner envelope enclosing the same, if such certificate is properly and legibly signed and it otherwise conforms with the provisions of this act.

L.1964, c. 134, § 25.

Library References

Elections ☞227(8), 240 et seq.

WESTLAW Topic No. 144.

C.J.S. Elections §§ 204, 214, 223 et seq.

19:58-26. Person receiving presidential ballot not to vote in person

No person who has applied for a Presidential ballot and to whom such a ballot has been either delivered in person or forwarded by mail by a county clerk, shall be permitted to vote in person at the polling place in his election district on the day of the election, but a Presidential ballot properly authenticated in the manner provided by this act may be voted and counted notwithstanding that the voter is in the State on the day of the election.

L.1964, c. 134, § 26.

Library References

Elections ☞215 et seq.

WESTLAW Topic No. 144.

C.J.S. Elections § 204 et seq.

19:58-27. Death of voter

Whenever it shall be made to appear by due proof to the county board that a voter who has marked and forwarded a Presidential ballot as provided in this act has died, prior to the opening of the polls on the day of the election, such ballot shall be rejected by the county board and retained by the county board in the same manner as provided herein in cases of other rejected ballots.

L.1964, c. 134, § 27.

Library References

Elections Ⓒ215 et seq.

WESTLAW Topic No. 144.

C.J.S. Elections § 204 et seq.

19:58-28. Canvass of presidential ballots

The inner envelopes containing the Presidential ballots shall be opened and the Presidential ballots shall be removed therefrom and counted, and the votes so cast canvassed, and the results thereof certified, by the county board of elections and the votes so counted and canvassed shall be counted, in determining the result of the election of such electors, at the same time and in the same manner as is required by the act hereby supplemented in the case of absentee ballots, except that it shall only be necessary to count or canvass such votes on a county wide basis and not on a ward and district basis.

L.1964, c. 134, § 28. Amended by L.1972, c. 86, § 1, eff. July 10, 1972.

Library References

Elections Ⓒ256 et seq.

WESTLAW Topic No. 144.

C.J.S. Elections § 235 et seq.

19:58-29. Duplicate voting records, marking of

As soon as practicable after each election, the commissioner of registration shall cause to be marked all duplicate voting records to show that a Presidential ballot was delivered or forwarded to the respective registered voters. For each such ballot that has been voted, received and counted, the commissioner of registration shall also, by reference to the certificates removed from the inner envelopes of such ballots, cause to be written or stamped the words "Voted by Presidential Ballot" in the space provided in the duplicate voting record for recording the ballot number of the voter's ballot in such election. The record of voting forms in the Presidential ballot file shall be conformed to the foregoing entries in the duplicate forms.

L.1964, c. 134, § 29.

Library References

Elections Ⓒ215 et seq., 255.

WESTLAW Topic No. 144.

C.J.S. Elections §§ 204 et seq., 234.

19:58-30. Affidavits of residence, applications, ballots and certificates to be kept one year; impounding

The county board of elections shall keep, for a period of 1 year, all of the affidavits of residence and applications for Presidential ballots, together with all certificates accompanying the same, all voted Presidential ballots, and all of the certificates which have been detached or separated by said board from said inner envelopes, and all inner envelopes together with their certificates, and together with their contents, which have not been opened because the county board or the Superior Court rejected them. Specific power is hereby granted to the superintendent of elections in counties having a superintendent of elections and the prosecutor in all other counties to impound all such ballots whenever he shall deem such action to be necessary. L.1964, c. 134, § 30. Amended by L.1991, c. 91, § 263, eff. April 9, 1991.

Library References

Elections ⇨255.

WESTLAW Topic No. 144.

C.J.S. Elections § 234.

19:58-31. Powers of county board, clerk, superintendent and commissioner over voting by presidential ballot

The county board of elections, the county clerk, the superintendent of elections and the commissioner of registration shall exercise the same powers over voting by Presidential ballots as over other voting in elections except as otherwise provided in this act.

L.1964, c. 134, § 31.

Library References

Elections ⇨54 et seq.

WESTLAW Topic No. 144.

C.J.S. Elections § 54 et seq.

19:58-32. Validity of election not affected by irregularities

No election shall be held to be invalid by reason of any irregularity or failure in the preparation or forwarding of any Presidential ballots pursuant to the provisions of this act.

L.1964, c. 134, § 32.

Library References

Elections §215 et seq., 227.

WESTLAW Topic No. 144.

C.J.S. Elections §§ 204 et seq.

19:58-33. Violations; penalties

Any person who knowingly violates any of the provisions of this act, or who, not being entitled to vote under this act, fraudulently votes, or attempts to vote thereunder or enables, or attempts to enable another person, not entitled to vote thereunder, to vote thereunder, or who prevents or attempts to prevent by fraud the voting of any person legally entitled to vote under this act, or who knowingly certifies falsely in any paper required to be executed under this act, shall be guilty of a misdemeanor and upon conviction thereof shall be subject, in addition to such other penalties as are authorized by law, to disenfranchisement unless and until pardoned or restored by law to the right of suffrage.

L.1964, c. 134, § 33.

Library References

Elections §309 et seq.

WESTLAW Topic No. 144.

C.J.S. Elections §§ 324, 334.

CHAPTER 59

FEDERAL ELECTION ABSENTEE VOTING

Section

- 19:59-1. Short title.
19:59-2. Definitions.
19:59-3. Overseas federal election voter; application for and vote by absentee ballot.
19:59-4. Request for application; place; time.
19:59-5. Application; contents; information for applicant.
19:59-6. Approval; lists; inspection; delivery to county board.
19:59-7. Overseas federal election voter ballot; form.
19:59-8. Instructions and notice; delivery.
19:59-8.1. Request by fax for application for an overseas federal election voter ballot; procedure.
19:59-9. Certificate on ballot; form.
19:59-10. Instructions for completion of ballot.
19:59-11. Counting ballots.
19:59-12. Application for overseas federal election ballot for all federal elections held during calendar year.
19:59-13. Rules and regulations.
19:59-14. Voting by fax.
19:59-15. Original ballot of person voting by fax to be sent by airmail to county board of elections; duties of board regarding faxed ballots.

Library References

Elections \S 216.1.

WESTLAW Topic No. 144.

C.J.S. Elections \S 210.

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19:59-1. Short title

This act shall be known and may be cited as the "Overseas Residents Federal Election Absentee Voting Law."

L.1976, c. 23, § 1, eff. May 7, 1976.

Historical and Statutory Notes**Title of Act:**

An Act concerning elections, providing for voting by absentee ballot by citizens residing abroad formerly domiciled in

New Jersey for candidates for Federal office, and supplementing the "Absentee Voting Law (1953)." L.1976, c. 23.

19:59-2. Definitions

As used in this act:

a. "United States" means each of the several states, the District of Columbia, Commonwealth of Puerto Rico, Guam, American Samoa and the Virgin Islands; the term does not mean or include the Canal Zone or any other territory or possession of the United States.

b. "Residing abroad" means residing outside the United States.

c. "Federal election" means any general, special or primary held for the purpose of nominating or electing any candidate for the office of President or Vice President of the United States, Presidential elector, United States Senator or member of the United States House of Representatives.

d. "Overseas Federal election voter" means any person in military service who, by reason of active duty or service, is absent on the date of an election from the place of residence in New Jersey where the person is or would be qualified to vote, and any citizen of the United States residing abroad who (1) immediately prior to his departure from the United States was domiciled in New Jersey and (a) was registered to vote, or had all the qualifications to register and vote, in New Jersey; or (b) had all the qualifications to register and vote in New Jersey other than having attained 18 years of age but has since attained that age; or (c) would, but for residence, have the qualifications to register and vote in New Jersey; (2) does not maintain a residence in the United States and is not registered or qualified to vote elsewhere in the United States; and (3) holds a valid passport or card of identity and registration issued under authority of the Secretary of State of the United States.

e. "Fax" means any transmission made by an electronic telefacsimile machine or device or by any other form of electronic transmission device which transports an authentic copy of a document from one user of the device to another.

L.1976, c. 23, § 2, eff. May 7, 1976. Amended by L.1993, c. 73, § 4, eff. April 11, 1993.

Library References

Words and Phrases (Perm. Ed.)

19:59-3. Overseas federal election voter; application for and vote by absentee ballot

Upon compliance with the provisions of this act any person meeting the qualifications of an "Overseas Federal election voter" may register to vote and may apply for and vote by absentee ballot in any Federal election held in the election district of this State in which he was formerly domiciled.

L.1976, c. 23, § 3, eff. May 7, 1976. Amended by L.1993, c. 73, § 5, eff. April 1, 1993.

19:59-4. Request for application; place; time

a. Requests for an application to vote in a federal election as an overseas federal election voter may be made by or on behalf of an applicant to the county clerk of the county in which the applicant was formerly domiciled or to the Secretary of State of New Jersey if the applicant does not know the county of his former domicile. All such applications shall be forwarded to such voters by air mail or by fax, if so requested by the voter. Any overseas Federal election voter requesting that an application for a ballot be sent to that voter by fax shall supply to the Secretary of State or the county clerk, as is appropriate, the telephone number and location to which the application is to be sent. To qualify an applicant to be sent a ballot by air mail in order to vote in an election, the applicant's completed application shall be received by the appropriate county clerk on or before the thirtieth day preceding the election. To qualify an applicant to be sent a ballot by fax in order to vote in an election, the applicant's completed application shall be received by the appropriate county clerk on or before the fourth day preceding the election.

b. An overseas federal election voter may use a federal postcard application form to register to vote or to apply for an overseas federal election voter ballot. The voter may send the form by air mail or by fax to either the appropriate county clerk or the Secretary of State and, in the case of an application for a ballot, may request that the ballot be sent by air mail or by fax. Any voter sending the form by fax shall also mail simultaneously the federal postcard application form to the appropriate county clerk or the Secretary of State. Any federal postcard application for a ballot sent by an overseas federal election voter and received by a county clerk or the Secretary of

State shall also be considered a request for registration if that voter is not already registered.

L.1976, c. 23, § 4, eff. May 7, 1976. Amended by L.1978, c. 130, § 1, eff. Oct. 18, 1978; L.1993, c. 73, § 6, eff. April 11, 1993; L.1995, c. 195, § 1, eff. Jan. 1, 1996.

Library References

Texts and Treatises

26 Am Jur 2d, Elections §§244 to 247.

19:59-5. Application; contents; information for applicant

a. An application for an overseas Federal election voter ballot shall be in substantially the following form:

APPLICATION FOR AN OVERSEAS FEDERAL ELECTION VOTER BALLOT

I, the undersigned, certify the following as a basis for an application as citizen of the United States residing outside the United States to receive a Federal election ballot to be voted at the election to be held on that is to say: (Date of election)

1. I am a citizen of the United States;
2. I presently reside at _____ (if mail should be addressed other than to my residence, also provide address for mail);
3. I was born on _____ (month, day, year)
4. a. I hold a valid U.S. Passport # _____, dated _____, or
 b. I hold a United States Citizens Identity and Registration Card (Form FS 225) dated _____ issued by _____ (name and location of U.S. Embassy or Consulate).
5. Immediately prior to taking up residence abroad I was domiciled in New Jersey and resided at _____, (street address), _____, (municipality) (county) (If formerly registered to vote from that address check here []).
6. I do not maintain a domicile in the United States and am not registered, entitled or applying to vote in any state other than New Jersey.
7. I understand that any false statement knowingly made in this application subjects me to the penalties provided by law for fraudulent voting.

Applicant (Signature)

Dated: _____ Applicant (Print or type name)

b. There shall also be sent to the applicant by air mail or by fax such instructions and portions of the law or regulations as the Secretary of State shall direct.

c. Any overseas Federal election voter requesting that a ballot be sent to that voter by fax shall indicate on the application for the ballot the telephone number and location to which the ballot is to be sent.

L.1976, c. 23, § 5, eff. May 7, 1976. Amended by L.1978, c. 130, § 2, eff. Oct. 18, 1978; L.1993, c. 73, § 7, eff. April 11, 1993.

19:59-6. Approval; lists; inspection; delivery to county board

Each county clerk, upon receipt of an application for an overseas Federal election voter ballot shall determine whether or not the applicant is qualified to vote such a ballot, make a list of those applications approved and disapproved which list shall be open to inspection by election officials and the public and shall forward an overseas Federal election voter ballot to each person whose application is approved. As to each voter whose application is approved the county clerk shall deliver to the county board of elections the completed application form for retention by the board for signature comparison with that on the certificate on the inner envelope containing the ballot upon its receipt.

L.1976, c. 23, § 6, eff. May 7, 1976.

19:59-7. Overseas federal election voter ballot; form

The county clerk shall prescribe the form of overseas Federal election voter ballot which shall be of such a character that it can be voted only for nominating or electing candidates for the office of President or Vice President of the United States, Presidential elector, United States Senator and member of the United States House of Representatives, or such thereof as are to be nominated or elected at the election.

L.1976, c. 23, § 7, eff. May 7, 1976.

19:59-8. Instructions and notice; delivery

a. Each county clerk shall send by air mail, with each overseas Federal election voter ballot transmitted by such means, appropriate printed instructions for its completion and return, together with an inner and outer envelope similar to that required as to civilian absentee ballots with a legend on the inner envelope stating "Overseas Federal Election Voter Ballot."

b. Each county clerk shall send to each overseas Federal election voter requesting that an overseas Federal election voter ballot be sent to that voter by fax all appropriate printed instructions for its

completion and return. The printed instructions sent to each such voter shall include a certificate substantially the same as provided for in section 9 of P.L.1976, c. 23 (C. 19:59-9).

c. The printed instructions sent with each overseas Federal election voter ballot shall include a copy of the following notice:

PENALTY FOR FRAUDULENT VOTING

Any person who knowingly violates any of the provisions of the Overseas Residents Federal Election Absentee Voting Law, or who, not being entitled to vote thereunder, fraudulently votes or attempts to vote thereunder or enables or attempts to enable another person, not entitled to vote thereunder, to vote fraudulently thereunder or who prevents or attempts to prevent by fraud the voting of any person legally entitled to vote under this act, shall be guilty of an indictable offense, and upon conviction thereof shall be subject, in addition to such other penalties as are authorized by law, to disenfranchisement unless and until pardoned or restored by law to the right of suffrage.

L.1976, c. 23, § 8, eff. May 7, 1976. Amended by L.1978, c. 130, § 3, eff. Oct. 18, 1978; L.1993, c. 73, § 8, eff. April 11, 1993.

19:59-8.1. Request by fax for application for an overseas federal election voter ballot; procedure

Whenever a county clerk receives a request by fax from an overseas Federal election voter that an overseas Federal election voter ballot be sent to that person by fax, the county clerk shall verify the voter's eligibility to vote as an overseas Federal election voter in the State and the county desired. If the overseas Federal voter is eligible to vote therein, the county clerk shall send the ballot to the voter as soon as practicable by fax using the telephone number supplied by the voter for that purpose. If the overseas Federal election voter is not eligible to vote in the State or the county desired, notice of non-eligibility shall be provided to the voter by fax as soon as practicable after the receipt of the request.

L.1993, c. 73, § 12, eff. April 11, 1993.

Historical and Statutory Notes

Title of Act: and supplementing P.L.1976, c. 23.
An Act concerning absentee voting, L.1993, c. 73.
amending P.L.1953, c. 211 and amending

19:59-9. Certificate on ballot; form

Upon the margin of the flap of the inner envelope to be sent to an overseas Federal election voter shall be printed a certificate substantially as follows:

I, the undersigned, residing at am the person who applied for, received and voted the enclosed Overseas Federal Election Ballot.

Dated:

Voter (SIGNATURE) Voter (PRINT or type name)

L.1976, c. 23, § 9, eff. May 7, 1976. Amended by L.1994, c. 77, § 16, eff. Jan. 1, 1995.

19:59-10. Instructions for completion of ballot

a. For overseas federal election voter ballots other than such ballots sent to the voter by fax, the procedure for completing the ballot shall be as follows:

Upon completion of the ballot by indicating his choice of candidates for the offices named, the ballot shall be placed in the inner envelope and sealed. Upon completion and signing in his handwriting the certificate attached to the inner envelope, the inner envelope shall be placed in the outer envelope which when sealed shall be mailed postage prepaid to the county board of elections whose address is printed thereon.

b. For overseas federal election voter ballots sent to the voter by fax, the procedure for completing the ballot shall be as follows:

After the ballot is received and completed by the voter by indicating that person's choice of candidates for the offices named, the ballot shall be placed in a secure envelope. Upon completion and signing in the voter's handwriting of the certificate sent to the voter pursuant to section 8 of P.L.1976, c. 23 (C. 19:59-8), it shall be placed in the same envelope as the voted ballot. The envelope shall then be sealed securely and sent immediately by air mail to the appropriate county board of elections in this State.

c. Notwithstanding the provisions of subsections a. and b. of this section, a copy of a voted overseas federal election voter ballot may be transmitted by fax to the appropriate county board of elections in this State. Such a ballot shall be subject to the provisions of sections 3 and 4 of P.L.1995, c. 195 (C. 19:59-14 and 19:59-15.)

L.1976, c. 23, § 10, eff. May 7, 1976. Amended by L.1993, c. 73, § 9, eff. April 11, 1993; L.1995, c. 195, § 2, eff. Jan. 1, 1996.

19:59-11. Counting ballots

On receipt of each overseas Federal election voter ballot, other than a ballot which had been sent by fax to an overseas Federal election voter, the signature on the certificate on the inner envelope shall be compared to that on the person's application. All ballots, whether originally sent to an overseas Federal election voter by air mail or by fax, shall be approved, disapproved, processed, counted

and disputes in connection therewith shall be handled in the same manner as is applicable to other absentee ballots. No ballot received after the time designated for the closing of the polls shall be counted. L.1976, c. 23, § 11, eff. May 7, 1976. Amended by L.1993, c. 73, § 10, eff. April 11, 1993.

Library References

Texts and Treatises

26 Am Jur 2d, Elections §§249, 251.

19:59-12. Application for overseas federal election ballot for all federal elections held during calendar year

An overseas Federal election voter may request, on any application form used, an overseas Federal election voter ballot for all federal elections held during the calendar year in which the request is made. Any instructions sent to an applicant pursuant to section 5 of P.L.1976, c. 23 (C. 19:59-5) shall inform the applicant that such a request may be made. If such a request is made, an overseas Federal election voter ballot shall be sent in a timely manner to the voter for all such elections.

L.1976, c. 23, § 12, eff. May 7, 1976. Amended by L.1993, c. 73, § 11, eff. April 11, 1993.

19:59-13. Rules and regulations

To effectuate the purposes of this act and its administration, the Secretary of State is authorized to promulgate such rules and regulations as he deems necessary and desirable.

L.1976, c. 23, § 13, eff. May 7, 1976.

19:59-14. Voting by fax

Notwithstanding any law, rule or regulation to the contrary, a copy of a voted overseas federal election voter ballot or of a voted federal write-in absentee ballot which is transmitted by fax to the appropriate county board of elections in this State shall be considered valid and counted if it:

- a. is from a qualified voter;
- b. has been transmitted to the appropriate county board of elections no later than the time designated by law for the closing of the polls on that day; and
- c. is accompanied by the following statement, which shall be certified by the voter's signature: "I understand that by faxing a copy of my voted ballot I am voluntarily waiving my right to a secret ballot. At the same time, I pledge to place the original voted ballot

in a secure envelope, together with any other required certification, and send the documents immediately by air mail to the appropriate county board of elections."

L.1995, c. 195, § 3, eff. Jan. 1, 1996.

Historical and Statutory Notes

Title of Act:

An Act concerning certain absentee ballots and amending and supplementing P.L.1976, c. 23. L.1995, c. 195.

19:59-15. Original ballot of person voting by fax to be sent by airmail to county board of elections; duties of board regarding faxed ballots

a. Immediately after a copy of the voted overseas federal election voter ballot or federal write-in absentee ballot has been faxed to the appropriate county board of elections, as permitted pursuant to section 3 of P.L.1995, c. 195 (C. 19:59-14), the overseas federal election voter shall place the original voted ballot in a secure envelope, together with a certificate substantially the same as provided for in section 9 of P.L.1976, c. 23 (C. 19:59-9), and send the documents by air mail to the appropriate county board of elections.

b. All copies of voted ballots received by fax shall be approved, disapproved, processed and counted, and disputes in connection therewith shall be handled, in the same manner as is applicable to other absentee ballots. No ballot received after the time designated for the closing of the polls shall be counted.

c. The county board of elections shall take all necessary precautions to preserve the security of the ballot materials and specifically shall ensure that the vote cast by a voter using a faxed ballot is not revealed, except to the extent necessary by law or judicial determination. Upon the completion of all inspections of a faxed ballot required by law, the board or any employee thereof acting under its direction shall promptly separate the waiver certification from the faxed ballot. Any person handling a faxed ballot shall not identify the votes cast by any voter, except upon judicial determination.

d. Prior to certification of the results of the election, the county board shall:

(1) compare the information on the faxed copy of each voted ballot with the same on the original voted ballot sent by air mail by the voter who faxed to the county board a copy of the voted ballot, and the signature on the statement received by fax with the signature on the certificate received by air mail; and

(2) ascertain whether an original voted ballot has been received for each faxed copy of a voted ballot received and counted.

Whenever the particulars of the faxed copy of a voted ballot of a voter do not conform exactly with the particulars of the original voted ballot sent by air mail to the county board afterwards by that voter and whenever an original voted ballot has not been received which corresponds to a faxed copy of a voted ballot which has been received and counted by the county board, those ballots and all other pertinent documents and information relative to those ballots shall be turned over to the superintendent of elections in counties having a superintendent and the prosecutor in all other counties for further investigation and action.

e. Within 30 days after the election, the county board shall gather and keep together the faxed copy of the voted ballot, the certified statement and the original voted ballot sent by air mail of each voter who transmitted a copy of a voted ballot by fax. Those ballots needed for an investigation conducted by the superintendent of elections or the county prosecutor, as the case may be, or by any other law enforcement official shall be returned to the county board as soon as practicable after the conclusion of the investigation. All ballots and documents relative to a faxed copy of a voted ballot received by the county board shall be retained by it for a period of one year following the day of the election. The superintendent of elections in counties having a superintendent and the prosecutor in all other counties shall have the authority to impound all such documents whenever he shall deem such action necessary.

L.1995, c. 195, § 4, eff. Jan. 1, 1996.

CHAPTER 60

SCHOOL ELECTIONS, GENERALLY

Section

- 19:60-1. Annual school elections.
- 19:60-2. Special elections.
- 19:60-3. Election duties to be performed by members of district board of education.
- 19:60-4. Designation and submission of public questions.
- 19:60-5. Nominating petitions; contents.
- 19:60-6. Certificate to accompany nominating petition; contents.
- 19:60-7. Nominating procedures; withdrawal of candidate; filling vacancy; written objection to nomination.
- 19:60-8. Drawings to determine position of names on ballot.
- 19:60-9. School election ballots; form and contents.
- 19:60-10. Sample ballots; delivery and mailing.
- 19:60-11. Use of poll list; form and contents.
- 19:60-12. Costs, charges and expenses for school election.

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19:60-1. Annual school elections

a. An annual school election shall be held in each type II district on the third Tuesday in April. However, in any school year, the Commissioner of Education shall make any adjustments to the school budget and election calendar which may be necessary to change the annual school election date if that date coincides with a period of religious observance. The commissioner shall inform local school boards, county clerks and boards of elections of these adjustments no later than the first working day in January of the year in which the adjustments are to occur.

b. All school elections shall be by ballot and, except as otherwise provided by P.L.1995, c. 278 (C. 19:60-1 et al.), shall be conducted in

the manner provided for general elections pursuant to Title 19 of the Revised Statutes. No grouping of candidates or party designation shall appear on any ballot to be used in a school election.

L.1995, c. 278, § 1, eff. March 14, 1996.

Historical and Statutory Notes

Title of Act:	Statutes and amending and repealing
An Act concerning school elections,	parts of the statutory law. L.1995, c.
supplementing Title 19 of the Revised	278.

Library References

Schools \Leftrightarrow 48(1), 53(1).	C.J.S. Schools and School Districts
WESTLAW Topic No. 345.	§§ 94, 117 to 132.

19:60-2. Special elections

a. The board of education of a type II district may call a special election of the legal voters of the district at any time when in its judgment the interests of the schools require it, or whenever 50 of the legal voters shall by petition so request, but no special school election shall be called to be held in any municipality on any day within 20 days before or after the day fixed according to law for the holding of any primary election for the general election or municipal or general election, and no more than two special school elections shall be called by any board of education within any period of six months to submit to the legal voters of the district for their adoption or rejection any proposal, resolution or question authorizing the issuance of bonds of the district, for the same purpose, unless the Commissioner of Education shall first have certified in writing the necessity therefor.

b. No business shall be transacted at any special election except such as shall have been set forth in the notices by which the election was called and in the notices of any special election, called upon petition as foresaid,¹ there shall be inserted the purposes named in the petition so far as the same are not in conflict with the provisions of Title 18A of the New Jersey Statutes.

L.1995, c. 278, § 2, eff. March 14, 1996.

¹ So in original. Probably should read "as aforesaid".

Library References

Schools \Leftrightarrow 97(4).	C.J.S. Schools and School Districts
WESTLAW Topic No. 345.	§§ 532 to 545.

19:60-3. Election duties to be performed by members of district board of education

a. Notwithstanding the provisions of R.S. 19:6-1, for school elections the county board of the county in which the election district is located shall designate two members of the district board of election to perform all the duties of the district board for that election, except that where electronic voting systems are in use in any election district in which there are more than 900 registered voters, the county board shall designate four members of the district board to perform all the duties of the district board for that election. Notwithstanding the provisions of R.S. 19:6-10, the county board shall appoint one of the persons so designated to serve as judge and the other or another, as the case may be, of those persons so designated to serve as inspector for school elections.

b. Notwithstanding the provisions of subsection a. or any other law to the contrary:

(1) Upon the request of a board of education or the clerk of a municipality in the county or upon its own initiative, the county board may designate the polling place and voting equipment of one election district to serve as the polling place and voting equipment for the voters of one or more other election districts for school elections. Such a designation shall be based on the casting of no more than 500 ballots during each of the two preceding annual school elections by the voters of the election districts for which that polling place is designated. If, at two consecutive annual school elections thereafter, the number of ballots cast by the voters in those election districts is more than 500, the county board shall effect an appropriate revision of the election districts using that polling place. If a request is from a municipal clerk, the request shall apply only to the election districts in that municipality.

(2) If one polling place is designated for two or more election districts, the county board shall designate at least two members from among the members of the district boards of election of those election districts to perform all the duties of the district board for the school election. The county board shall also appoint one of the persons so designated to serve as judge and another of those persons to serve as inspector for school elections.

L.1995, c. 278, § 3, eff. March 14, 1996; L.1996, c. 3, § 1, eff. Feb. 29, 1996.

Library References

Schools ⇨48(1), 53(1), 97(4).
WESTLAW Topic No. 345.

C.J.S. Schools and School Districts
§§ 94, 117 to 132, 532 to 545.

19:60-4. Designation and submission of public questions

The secretary of each board of education, not later than 10 o'clock a.m. of the 17th day preceding the annual school election or a special school election, shall make and certify and forward to the clerk of the county in which the school district is located a statement designating any public question to be voted upon by the voters of the district which may be required pursuant to the provisions of P.L.1995, c. 278 (C. 19:60-1 et al.) or Title 18A of the New Jersey Statutes.

L.1995, c. 278, § 4, eff. March 14, 1996.

Library References

Schools ⇨48(1), 53(1), 97(4).
WESTLAW Topic No. 345.

C.J.S. Schools and School Districts
§§ 94, 117 to 132, 532 to 545.

19:60-5. Nominating petitions; contents

Notwithstanding the provisions of R.S. 19:13-4, each nominating petition for a candidate to be voted upon at a school election shall be addressed to the secretary of the board of education and therein shall be set forth:

a. A statement that the signers of the petition are all qualified voters of the school district or, in the case of a regional school district, qualified voters of the constituent district which the candidate shall represent on the board of education of the regional district;

b. The name, residence and post office address of the person endorsed and the office for which he is endorsed;

c. That the signers of the petition endorse the candidate named in the petition for that office and request that the person's name be printed upon the official ballot to be used at the ensuing election; and

d. That the person so endorsed is legally qualified to be elected to the office.

Any form of a petition of nomination hereunder which is provided to candidates in a school election shall contain the following notice: "Notice: All candidates are required by law to comply with the provisions of 'The New Jersey Campaign Contributions and Expenditures Reporting Act.' For further information, please call (insert phone number of the Election Law Enforcement Commission)."

L.1995, c. 278, § 5, eff. March 14, 1996.

Historical and Statutory Notes

Prior Laws: C. 18A:14-9 (L.1967, c. 271, § 18A:14-9, amended by L.1985, c. 181, § 1; L.1987, c. 328, § 4), 92, § 2). C. 18A:14-10 (L.1967, c. 271,

Library References

Schools 48(1), 53(1).
WESTLAW Topic No. 345.

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19:60-6. Certificate to accompany nominating petition; contents

Accompanying the nominating petition and to be filed therewith, there shall be a certificate signed by the person endorsed in the petition stating that:

- a. The person is qualified to be elected to the office for which the person is nominated, including a specific affirmation that the person is not disqualified as a voter pursuant to R.S. 19:4-1;
- b. The person consents to stand as a candidate for election; and
- c. If elected, the person agrees to accept and qualify into that office.

L.1995, c. 278, § 6, eff. March 14, 1996.

Historical and Statutory Notes

Prior Laws: C. 18A:14-11 (L.1967, c. 271, § 18A:14-12, amended by L.1969, 271, § 18A:14-11). C. 18A:14-12 (L.1967, c. 147, § 1; L.1985, c. 92, § 3).

Library References

Schools 48(1), 53(1).
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19:60-7. Nominating procedures; withdrawal of candidate; filling vacancy; written objection to nomination

Each candidate to be voted upon at a school election shall be nominated directly by petition, and the procedures for such nomination shall, to the extent not inconsistent with the provisions of P.L.1995, c. 278 (C. 19:60-1 et al.), conform to the procedure for nominating candidates by direct petition under chapter 13 of Title 19 of the Revised Statutes. Notwithstanding the provisions of R.S. 19:13-5, however, a petition of nomination for such office shall be signed by at least 10 persons, none of whom shall be the candidate himself, and filed with the secretary of the board of education on or before four p.m. of the 50th day preceding the date of the school election. The signatures need not all appear upon a single petition and any number of petitions may be filed on behalf of any candidate

but no petition shall contain the endorsement of more than one candidate.

Any candidate may withdraw as a candidate in a school election by filing a notice in writing, signed by the candidate, of such withdrawal with the secretary of the board of education before the 44th day before the date of the election, and thereupon the name of that candidate shall be withdrawn by the secretary of the board of education and shall not be printed on the ballot.

A vacancy created by a declination of nomination or withdrawal by, or death of, a nominee, or in any other manner, shall be ineligible to be filled under the provisions of R.S. 19:13-19 or otherwise.

Whenever written objection to a petition of nomination hereunder shall have been made and timely filed with the secretary of the board of education, the board of education shall file its determination of the objection on or before the 44th day preceding the school election. The last day upon which a candidate may file with the Superior Court a verified complaint setting forth any invasion or threatened invasion of the candidate's rights under the candidate's petition of nomination shall be the 46th day before the election. The last day upon which a candidate whose petition of nomination or any affidavit thereto is defective may amend such petition or affidavit shall be the 44th day before the election.

L.1995, c. 278, § 7, eff. March 14, 1996.

Historical and Statutory Notes

Prior Laws: C. 18A:14-12.1 (L.1967, c. 271, § 18A:14-12.1, amended by L.1985, c. 92, § 4; L.1987, c. 159, § 1).

Library References

Schools ⇨ 48(1), 53(1).
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1. Retroactive effect

Legislative intent required retroactive application of statute governing conduct of school board elections to conduct of April 1996 election contested by plaintiff challenging action of school district board of education in striking nominating

petition of candidate for regional school board; governor's veto message of original bill specifically articulated desire that bill should be in place for April 1996 elections, legislature revised bill in accordance with governor's suggestions, none of parties in election at issue were caught unaware of requirements of new statute, nominating petition at issue was filed in accordance with requirements of new statute, and school board did not reject petition on ground of untimely filing as would have been appropriate under pre-

vious statute. *Saunders v. Toms River Regional Schools Bd. of Educ.*, 289 N.J.Super. 225, 673 A.2d 804 (A.D.1996), reversed on other grounds 144 N.J. 371, 676 A.2d 1088.

2. Signatures

Where petition of nomination for candidate for township board of education contained signatures of only ten persons and where one of signers had been convicted of crime disenfranchising him and rendering number of valid signatures less than minimum required by statute, such defect could not be cured. *Kumpa v. Page*, 178 N.J.Super. 589, 429 A.2d 1073 (A.D.1981).

Prospective candidate assumed responsibilities attached to candidacy, and thus prospective candidate, who received nominating petition one-and-half hour before filing deadline and who used his own signature as one of ten required signatures, was not entitled to emergent relief following rejection by school board of nominating petition. *Darrow v. Board of Educ. Borough of Brooklawn*, 93 N.J.A.R.2d (EDU) 358 (1993).

3. Powers of secretary

Secretary of regional school board had inherent authority to verify that each nominating petition submitted on behalf of candidates for school board conformed with substantive and procedural requirements established by statute governing conduct of school board elections, including requirement that each signer be qualified voter in relevant district, and no written objection was required to be filed as precondition to such examination of nominating petition. *Saunders v. Toms River Regional Schools Bd. of Educ.*, 289 N.J.Super. 225, 673 A.2d 804 (A.D.1996), reversed on other grounds 144 N.J. 371, 676 A.2d 1088.

4. Actions

Citizen residing in school district had standing to challenge school board's rejection of nominating petition of candidate for school board; status as citizen gave him requisite interest in ensuring fair application of laws governing school board elections. *Saunders v. Toms River Regional Schools Bd. of Educ.*, 289 N.J.Super. 225, 673 A.2d 804 (A.D.1996), reversed on other grounds 144 N.J. 371, 676 A.2d 1088.

19:60-8. Drawings to determine position of names on ballot

Notwithstanding the provisions of R.S. 19:14-12, the position which the names of candidates shall have upon the annual school election ballot in each school district shall be determined by the a secretary of the board of education by conducting a drawing in the following manner:

a. The drawing shall be done by the secretary of the board of education seven working days following the last day for filing a petition for the nomination of such a candidate. The person making the drawing shall make public announcement at the drawing of each name, the order in which the name is drawn and the term of office for which the drawing is made.

b. A separate drawing shall be made for each full term and for each unexpired term, respectively. The names of the several candidates for whom petitions have been filed for each of the terms shall be written upon paper slips which shall be placed in capsules of the same size, shape, color and substance and then placed in a covered box with an aperture in the top large enough to admit a person's hand and to allow the capsules to be drawn therefrom. The box shall be turned and shaken thoroughly to mix the capsules and the capsules shall be withdrawn one at a time.

c. Where there is more than one person to be elected for a given term of office, the position of the names on the ballots for each term of office shall be determined as above described. The name of the candidate for each term of office first drawn from the box shall be printed directly below the proper term for which the person was nominated and the name of the candidate next drawn shall be printed next in order, and so on, until the last name shall be drawn from the box.

The secretary of the board of education shall, within two days following the drawing, certify to the county clerk the results of the drawing.

L.1995, c. 278, § 8, eff. March 14, 1996.

Historical and Statutory Notes

Prior Laws: C.18A:14-13 (L.1967, c. 271, § 18A:14-13, amended by L.1972, c. 188, § 1; L.1985, c. 49, § 1).

Library References

Schools ☞ 48(1), 53(1).
WESTLAW Topic No. 345.

C.J.S. Schools and School Districts
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19:60-9. School election ballots; form and contents

The ballot for a school election shall be a single or blanket form of ballot, upon which shall be printed in bold-faced type the words "OFFICIAL SCHOOL ELECTION BALLOT" or "OFFICIAL SPECIAL SCHOOL ELECTION BALLOT", as appropriate. Any public question which is to be submitted to the voters at a school election shall be printed in a separate space below or to the right of, as the county clerk shall determine, the listing of candidates in the election.

In the columns in which are listed the titles of the offices to be filled at a school election and the names of candidates for those offices, the title of and the names of candidates for the office of member of the regional board of education shall appear above the title of and the names of candidates for the office of member of the local board of education. With respect to either office, in the event that one or more persons are to be elected to membership thereon for a full term and one or more persons are to be elected to membership thereon to fill an unexpired term, the ballots shall designate which of the candidates to be voted for is to be elected for a full term and which for an unexpired term. In all cases in which one or more persons are to be elected for an unexpired term, the ballots shall indicate the duration of that unexpired term.

All public questions to be voted upon at a school election by the voters of more than one municipality shall be placed first before any

question to be voted upon at that election by the voters of a single municipality.

Every county clerk shall have ready for the printer a copy of the contents of official ballots required by law to be printed for use at a school election, as follows: in the case of the annual school election, not later than the 17th day preceding that election; and in the case of any special school election, not later than two business days following receipt by the clerk of official notice of the complete content of the ballot to be voted upon at that election.

L.1995, c. 278, § 9, eff. March 14, 1996.

Library References

Schools 48(1), 53(1), 97(4).
WESTLAW Topic No. 345.

C.J.S. Schools and School Districts
§§ 94, 117 to 132, 532 to 545.

19:60-10. Sample ballots; delivery and mailing

The county clerk shall cause samples of the official school election ballot to be printed in the same manner as prescribed for the printing of sample ballots for the general election by R.S. 19:14-21. In counties not having a superintendent of elections where the county board of elections does not have the equipment or facilities to address and mail sample ballot envelopes, the delivery of such sample ballots for mailing, issuance of a receipt for such delivery, and the mailing of sample ballots shall be effected in the same manner as prescribed for the sample ballot for the general election under subsection a. of R.S. 19:14-21; and in counties having a superintendent of elections and in other counties where the county board of elections may have such equipment or facilities, the delivery of ballots for mailing, issuance of a receipt for such delivery, and the mailing of sample ballots shall be effected in the same manner as prescribed for the sample ballot for the general election under subsection b. of R.S. 19:14-21, subject to the condition that the latest time at which the county clerk may furnish sample ballots for mailing shall be the eighth day preceding the school election.

L.1995, c. 278, § 10, eff. March 14, 1996.

Historical and Statutory Notes

Prior Laws: C. 18A:14-29 (L.1967, c. 271, §§ 18A:14-30, 271, § 18A:14-29, amended by L.1991, c. 18A:14-31).
52, § 1). CC. 18A:14-30, 18A:14-31

Library References

Schools 48(1), 53(1), 97(4).
WESTLAW Topic No. 345.

C.J.S. Schools and School Districts
§§ 94, 117 to 132, 532 to 545.

19:60-11. Use of poll list; form and contents

The district board of election shall, for any school election, utilize a poll list instead of the signature copy register. The poll list shall be arranged in a column or columns appropriately headed so as to indicate the election, the date thereof, and the school district and election district in which the same is used, in such a manner that each voter voting in the polling place at the election may sign the voter's name and state the voter's address therein and the number of the voter's official ballot may be indicated opposite the signature. The district board shall compare the signature in the poll lists with that in the signature copy registers before accepting the ballot.

If one polling place is designated for two or more election districts pursuant to subsection b. of section 3 of P.L.1995, c. 278 (C. 19:60-3), the provisions of this section shall apply to the members of the district boards of election designated to serve as the election officers at the polling place for those election districts. The signature copy registers for those election districts shall be provided to those election officers.

L.1995, c. 278, § 11, eff. March 14, 1996; L.1996, c. 3, § 2, eff. Feb. 29, 1996.

Historical and Statutory Notes

Prior Laws: CC. 18A:14-47, 18A:14-48
(L.1967, c. 271, §§ 18A:14-47,
18A:14-48).

1996 Legislation

L.1996, c. 3, § 2, added closing par.

Library References

Schools \S 48(1), 53(1), 97(4).
WESTLAW Topic No. 345.

C.J.S. Schools and School Districts
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19:60-12. Costs, charges and expenses for school election

All costs, charges and expenses, including the compensation of the members of the district boards and the compensation and expenses of the county board of elections, the county superintendent of elections, the clerk of the county, and the municipal clerks for any school election shall be paid by the board of education of the school district. All costs, charges and expenses submitted to the board of education for payment shall be itemized and shall include the separate identification of costs to prepare, print and distribute sample ballots. Amounts expended by a county or a municipality in the conduct of school elections for which the board of education shall make payment shall be considered mandated expenditures exempt from the limitations on the county tax levy and from the limitations on final municipal appropriations imposed pursuant to P.L.1976, c. 68 (C. 40A:4-45.1 et seq.), and any costs to the board of education

which exceed the amount of the costs to that board for the annual school election immediately preceding the enactment of P.L.1995, c. 278 (C. 19:60-1 et seq.) shall not be included for the purpose of calculating a school district's maximum permissible net budget pursuant to section 85 of P.L.1990, c. 52 (C. 18A:7D-28).

L.1995, c. 278, § 12, eff. March 14, 1996; L.1996, c. 3, § 3, eff. Feb. 29, 1996.

Historical and Statutory Notes

1996 Legislation

L.1996, c. 3, § 2, required board of education to pay for compensation of municipal clerks; provided that expenses incurred by the board of education in the conduct of school elections were mandated expenditures exempt from limitations

on final municipal appropriations imposed pursuant to § 40A:4-45.1 and prohibited amounts in excess of costs for previous annual school election from being included for the purpose of calculating district's maximum permissible net budget pursuant to § 18A:7D-28.

Library References

Schools \S 48(1), 53(1), 97(4).
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