

[First Reprint]

SENATE, No. 3816

STATE OF NEW JERSEY

221st LEGISLATURE

INTRODUCED OCTOBER 24, 2024

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District 11 (Monmouth)

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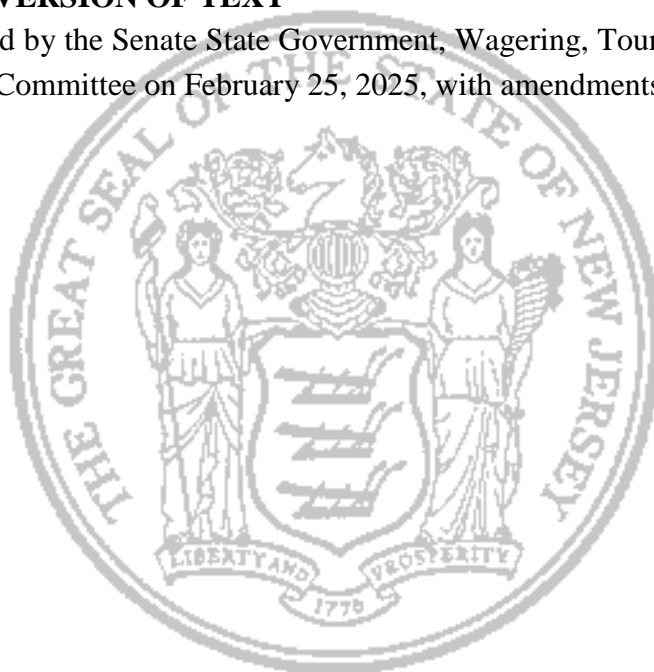
Senator Greenstein

SYNOPSIS

Ensures boards of elections have discretion to make initial determination of validity of cast ballots; requires Secretary of State to establish uniform guidelines for assessing validity of ballots.

CURRENT VERSION OF TEXT

As reported by the Senate State Government, Wagering, Tourism & Historic Preservation Committee on February 25, 2025, with amendments.



(Sponsorship Updated As Of: 6/30/2025)

1 AN ACT concerning the counting of cast ballots by boards of
2 elections ¹**[and]** ¹ amending R.S.19:16-3 and R.S.19:16-4 ¹, and
3 supplementing chapter 16 of Title 19 of the Revised Statutes¹.
4

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

7
8 1. R.S.19:16-3 is amended to read as follows:

9 19:16-3. **[In]** Notwithstanding the provisions of any other law to
10 the contrary, when canvassing the ballots the district board shall count
11 the votes as follows:

12 a. If proper marks are made in the squares to the left of the names
13 of any candidates in any column and the total number voted for, for
14 each office, does not exceed the number of candidates to be elected to
15 each office, a vote shall be counted for each candidate so marked.

16 b. If proper marks are made in the squares to the left of any names
17 of any candidates in any column and in addition thereto, proper marks
18 are made to the right of said names, a vote shall be counted for each
19 candidate so marked; but if the district board canvassing the ballots
20 or the county board, judge of the Superior Court or other judge or
21 officer conducting a recount thereof, shall be satisfied that the placing
22 of such marks to the left and right of the names was intended to
23 identify or distinguish the ballot, then the ballot shall not be counted
24 and shall be declared null and void. The district board canvassing the
25 ballots or the county board, as the case may be, shall exercise its
26 discretion and judgment in making a determination as to whether the
27 marks on a ballot were intended to identify or distinguish the ballot.

28 c. If no marks are made in the squares to the left of the names of
29 any candidates in any column, but are made to the right of said names,
30 a vote shall not be counted for the candidates so marked, but if the
31 district board canvassing the ballot or the county board, as the case
32 may be, determines, in its judgment, that the voter's intention of
33 making the mark was to vote for the candidate whose name the mark
34 appears to the right of, the vote shall be counted. A vote shall be
35 counted for such other candidates as are properly marked [; but if] .
36 If the district board canvassing the ballot or the county board, judge of
37 the Superior Court or other judge or officer conducting a recount
38 thereof, shall be satisfied that the placing of the marks to the right of
39 the names was intended to identify or distinguish the ballot, the ballot
40 shall be declared null and void. The district board canvassing the
41 ballots or the county board, as the case may be, shall exercise its
42 discretion and judgment in making a determination as to whether the
43 placement of the marks on a ballot were intended to vote for a

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SSG committee amendments adopted February 25, 2025.

1 candidate for election on the ballot, or to identify or distinguish the
2 ballot.

3 d. Where the name of any person is written or pasted in the
4 column designated personal choice, and a cross x , plus + or check X
5 appears in the square to the left of the name, it shall be counted as a
6 vote for such person.

7 e. In the case of any public question printed on the ballot where a
8 proper mark is made in the square to the left of the word "Yes," it
9 shall be counted as a vote in favor of such public question. If a proper
10 mark is made in the square to the left of the word "No," it shall be
11 counted as a vote against same. If no mark is made in the square to
12 the left of either the word "Yes," or "No," it shall not be counted as
13 a vote either in favor of or against said public question. If a mark is
14 made in each of the squares to the left of both the words "Yes" and
15 "No," it shall not be counted either as a vote in favor of or against the
16 public question nor shall it invalidate the ballot.

17 f. If a voter marks more names than there are persons to be elected
18 to an office, or writes or pastes the name of any person in the column
19 designated personal choice, whose name is printed upon the ballot as a
20 candidate under the same title of office, or his choice cannot be
21 determined, his ballot shall not be counted for that office, but shall be
22 counted for such other offices as are plainly marked.

23 g. If the mark made for any candidate or public question is
24 substantially a cross x , plus + or check X and is substantially within
25 the square, it shall be counted for the candidate or for or against the
26 public question, as the case may be. No vote shall be counted for any
27 candidate in any column or for or against any public question unless
28 the mark made is substantially a cross x , plus + or check X and is
29 substantially within the square. Notwithstanding the provisions of this
30 subsection, if, in the judgment of the district board canvassing the
31 ballots or the county board, as the case may be, the voter's intent in
32 making the mark was to vote for any candidate or public question, it
33 shall be counted for the candidate or for or against the public question,
34 as the case may be. The district board canvassing the ballots or the
35 county board, as the case may be, shall exercise its discretion and
36 judgment in making a determination as to whether a vote shall be
37 counted pursuant to this subsection, irrespective of the type of mark or
38 its location on the ballot¹, provided that the mark is reasonably close
39 to the square that would be marked to indicate a vote for any candidate
40 or for or against any public question.

41 h. If a voter has written the name of a candidate reasonably close
42 to the position occupied on the ballot by a particular office for election
43 and has made a mark that is substantially a cross x , plus + or check
44 X, or written the word "Yes" reasonably close to the name of such
45 candidate, the district board canvassing the ballots or the county board,
46 as the case may be, shall count the vote for such candidate if, in the
47 judgment of the district board canvassing the ballots or the county

1 board, as the case may be, the voter's intent in doing so was to vote for
2 such candidate¹.

3 (cf: P.L.1953, c.19, s.17)

4

5 2. R.S.19:16-4 is amended to read as follows:

6 19:16-4. **[In]** Notwithstanding the provisions of any other law
7 to the contrary, when counting the ballots [the] :

8 a. The board shall deem null and void all ballots which are
9 wholly blank, or on which more names have been marked for every
10 office than there are persons to be elected to such office, and on
11 which both "Yes" and "No" have been marked upon every public
12 question. All ballots still remaining in the ballot box after ballots
13 equal in number to the number of names of voters in the registry
14 binders who have voted at such election inclusive of void ballots,
15 have been counted shall be deemed null and void.

16 b. No ballot which shall have, either on its face or back, any
17 mark, sign, erasure, designation or device whatsoever, other than is
18 permitted by this Title, by which such ballot can be distinguished
19 from another ballot, shall be declared null and void, unless the
20 district board canvassing such ballots, or the county board, judge of
21 the Superior Court or other judge or officer conducting the recount
22 thereof, shall be satisfied that the placing of the mark, sign, erasure,
23 designation or device upon the ballot was intended to identify or
24 distinguish the ballot. The district board canvassing the ballots or
25 the county board, as the case may be, shall exercise its discretion
26 and judgment in making a determination as to whether any
27 unauthorized mark, sign, erasure, designation or device on a ballot
28 was intended to identify or distinguish the ballot.

29 c. No ballot shall be declared invalid by reason of the fact that
30 the mark made with ink or the mark made with lead pencil appears
31 other than black.

32 d. No ballot cast for any candidate shall be invalid by reason of
33 the fact that the name of such candidate may be misprinted, or his
34 Christian name or his initials may be omitted.

35 e. No ballot cast for any candidate shall be invalid by reason of
36 the use of any paster permitted by this Title on which the title of
37 office may be printed or the name of such candidate may be
38 misprinted or part of his Christian or surname or initials may be
39 omitted, or because the voter in writing the name of such candidate
40 may misspell the same or omit part of his Christian name or
41 surname or initials.

42 f. No ballot shall be declared null and void or invalid, by reason
43 of having a cross x , plus + or check X appearing in a square at
44 the left of a blank space, or a space wherein no name is printed.

45 (cf: P.L.1953, c.19, s.18)

46

47 ¹3. (New section) The Secretary of State, in consultation with the
48 county board of elections in each county, shall establish uniform

1 guidelines to assist the county boards and the district boards
2 canvassing the ballots in their assessment of the validity of marks
3 made and votes cast upon ballots used in this State, in accordance with
4 the requirements of R.S.19:16-3 and R.S.19:16-4.¹

5

6 ¹**[3.]** 4.¹ This act shall take effect immediately.