

EXECUTIVE ORDER NO. 313

WHEREAS, on March 9, 2020, Governor Murphy issued Executive Order No. 103, declaring the existence of a Public Health Emergency, pursuant to the Emergency Health Powers Act ("EHPA"), N.J.S.A. 26:13-1 et seq., and a State of Emergency, pursuant to the New Jersey Civilian Defense and Disaster Control Act ("Disaster Control Act"), N.J.S.A. App A:9-33 et seq., in the State of New Jersey for Coronavirus disease 2019 ("COVID-19"), the facts and circumstances of which are adopted by reference herein; and

WHEREAS, through Executive Order Nos. 119, 138, 151, 162, 171, 180, 186, 191, 200, 210, 215, 222, 231, 235, and 240, which were issued each month between April 7, 2020 and May 14, 2021, the facts and circumstances of which are adopted by reference herein, Governor Murphy declared that the COVID-19 Public Health Emergency in effect at the time continued to exist; and

WHEREAS, as a result of significant emergency measures taken, the State made considerable progress against the initial outbreak of COVID-19; and

WHEREAS, in the context of our elections, the State's use of certain COVID-19 mitigation protocols, including social distancing and masking, and the increased access to vote-by-mail opportunities, allowed New Jersey residents to exercise their right to vote safely and securely; and

WHEREAS, pursuant to Executive Order Nos. 105, 120, 144, 164, 169, 177, 179, 193, 198, 203, 211, and No. 216 (2020) and No. 223 (2021), which were issued between March 19, 2020 and February 19, 2021, the facts and circumstances of which are adopted by reference herein, New Jersey was able to navigate federal and State primary and general elections in 2020 and 2021, as well as other municipal,

special, and run-off elections, despite the challenges COVID-19 imposed upon election administration; and

WHEREAS, given the progress the State made in initially combating COVID-19, on June 4, 2021, Governor Murphy signed Assembly Bill No. 5820 into law as P.L.2021, c.103, and Executive Order No. 244 which, collectively, terminated the initial Public Health Emergency declared in Executive Order No. 103 (2020), but explicitly maintained the State of Emergency declared in Executive Order No. 103 (2020); and

WHEREAS, shortly after Executive Order No. 244 (2021) took effect, several new variants of COVID-19 emerged, thereby necessitating additional action to protect the public; and

WHEREAS, on January 11, 2022, Governor Murphy issued Executive Order No. 280, declaring the existence of a new Public Health Emergency, pursuant to the EHPA, N.J.S.A. 26:13-1 et seq., and continuing the State of Emergency declared in Executive Order No. 103 (2020) pursuant to the Disaster Control Act, N.J.S.A. App. A:9-33 et seq., in the State of New Jersey; and

WHEREAS, through Executive Order Nos. 281, 283, 288, and 290, which were issued between January 11, 2022 and March 2, 2022, the facts and circumstances of which are adopted by reference herein, Governor Murphy continued the Public Health Emergency declared in Executive Order No. 280 (2022) and extended various orders to protect the public against COVID-19 variants; and

WHEREAS, through the use of multicomponent COVID-19 prevention strategies, including increased vaccination coverage, expanded access to therapeutics, testing and other prevention measures, the State was able to significantly reduce the spread and impact of COVID-19 variants; and

WHEREAS, on March 4, 2022, Governor Murphy issued Executive Order No. 292 terminating the Public Health Emergency declared in Executive Order No. 280 (2022) effective March 7, 2022, while continuing the State of Emergency declared in Executive Order No. 103 (2020); and

WHEREAS, despite the extensive progress made in combatting COVID-19, and the ability to lift certain mitigation protocols in the context of election administration, New Jersey residents have increasingly voted by mail due, in part, to the measures implemented in response to COVID-19; and

WHEREAS, voting by mail offers voters a safe alternative to in-person participation in the democratic process, particularly among elderly and immunocompromised voters that may still be reticent about increasing their risk of exposure to COVID-19 by voting in-person at a polling site; and

WHEREAS, at the same time, the increased interest in vote-by-mail as a safe alternative to avoid the potential risk of exposure to COVID-19, combined with current statutory deadlines, has imposed administrative constraints upon State, county and municipal election officials; and

WHEREAS, the sustained interest in voting by mail, combined with certain statutory deadlines, continue to impose administrative time constraints upon State, county and municipal election officials that make it increasingly unlikely that they will be unable to complete a run-off election in the timeframe required; and

WHEREAS, these administrative time constraints are particularly exacerbated in the case of municipal elections where it is yet uncertain whether there will even be a need for a run-off election further limiting election officials' ability to

prepare, send, and receive the anticipated increased amount of vote-by-mail ballots within the statutory deadlines; and

WHEREAS, N.J.S.A. 40:45-19 requires a run-off election in any municipal election held under N.J.S.A. 40:45-18 if a candidate does not receive a majority of the votes cast, in the case of a mayoral election, or if a sufficient number of candidates do not receive a majority of the votes cast, in the case of a councilman-at-large, commissioner, or village trustee election; and

WHEREAS, pursuant to N.J.S.A. 40:45-19, run-off elections resulting from municipal elections occurring on the day of the November General Election shall be held on the Tuesday following the first Monday in December; and

WHEREAS, the date of a municipal run-off election resulting from a November General Election occurs fifteen days following the certification of election results, and ten days after such results have been transmitted to the Secretary of State; and

WHEREAS, in the interim, county and municipal election officials must undertake the at times impossible task of printing a voluminous amount of election day materials and ballots in time for the municipal run-off election date, including the printing and mailing of sample ballots and vote-by-mail ballots to the voters in the relevant municipalities; and

WHEREAS, in practice, extreme efforts must be undertaken over the course of the Thanksgiving holiday, a time when mail is delayed by the closure of the United States Postal Office, and when many New Jersey voters travel out of State; and

WHEREAS, as of the date of this Executive Order, the Administration has been made aware of at least three municipalities in three separate counties which, despite having outstanding ballots to be canvassed, have confirmed the need to hold municipal

run-off elections, including the City of Trenton, the City of Perth Amboy, and the Township of Manchester; and

WHEREAS, as of the date of this Executive Order, the Administration has been informed that the County of Mercer is unlikely to certify the results of the 2022 General Election by the upcoming deadline of Monday, November 21, 2022; and

WHEREAS, as of the date of this Executive Order, the Administration has been informed that the County of Monmouth is still canvassing ballots and therefore is not aware of whether a run-off election will be necessary in a certain municipality within that county and is not aware of when the information related to the run-off election will be available to election officials, voters, and candidates, making it unlikely that election officials will be able to make the necessary preparations for a run-off election within the required timeframe; and

WHEREAS, while the relevant county and municipal election officials continue to work around the clock, it is already apparent that these municipalities will be unable to meet the statutory timeframe for run-off elections pursuant to N.J.S.A. 40:45-19; and

WHEREAS, to accommodate the increased interest in vote-by-mail ballots resulting, in part, from the COVID-19 pandemic, particularly those at increased risk of exposure to COVID-19, including those that are immunocompromised and the elderly and to ensure enough time to complete preparations of vote-by-mail ballots ahead of these and any other upcoming run-off elections, county and municipal election officials need sufficient preparation time to ensure that are ballots are received and counted within the required timeframes; and

WHEREAS, the full participation of voters and candidates is critical to a robust democracy; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, SHEILA Y. OLIVER, Acting Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. Any run-off elections resulting from municipal elections held in the 2022 General Election and required under N.J.S.A. 40:45-19, shall be postponed and rescheduled for Tuesday, December 13, 2022.

2. If any school was used as a polling place in the 2022 General Election by a municipality needing to hold a run-off election on December 13, 2022, those schools may provide remote instruction pursuant to N.J.S.A. 18A:7F-9.

3. The notice provision of N.J.S.A. 40:45-12 is modified as follows to allow for the timely printing and mailing of the vote-by-mail ballots. The notice to the candidates or groups of candidates required by N.J.S.A. 40:45-12, shall be made by email and phone immediately following the certification of the results of the 2022 General Election resulting in the run-off election. The ballot draw must not take place within 24 hours from the date and time the notice was sent to the candidates or groups of candidates. The county clerk shall send vote-by-mail ballots by first-class mail to all voters issued General Election vote-by-mail ballots on or before November 28, 2022 in municipalities holding run-off elections.

4. To allow for the signature verification and cure process, the certification deadline set forth in N.J.S.A. 40:45-16 is hereby suspended. The municipal clerk shall certify the results of the run-off election on December 30, 2022.

5. County and municipal election officials, as appropriate, shall act to facilitate the public's understanding of the rules governing the December 13, 2022 run-off elections.

6. This Order shall take effect immediately.

GIVEN, under my hand and seal this
18th day of November,
Two Thousand and Twenty-two,
and of the Independence of
the United States, the Two
Hundred and Forty-Seventh.

[seal]

/s/ Sheila Y. Oliver

Acting Governor

Attest:

/s/ Lisa M. Almeida

Deputy Chief Counsel to the Governor