

2013 -- S 0446

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

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A N A C T

RELATING TO ELECTIONS -- MAIL BALLOTS

Introduced By: Senators McCaffrey, Lynch, and Lombardo

Date Introduced: February 28, 2013

Referred To: Senate Judiciary

(Board of Elections)

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 17-20-26 of the General Laws in Chapter 17-20 entitled "Mail
2 Ballots" is hereby amended to read as follows:

3 **17-20-26. Opening and counting of ballots.** -- (a) (1) Beginning prior to and continuing
4 on election day the state board, upon receipt of mail ballots, shall keep the ballots in a safe and
5 secure place which shall be separate and apart from the general public area, and shall:

6 (i) Open the outer envelope and attach the matching ballot application to the inner
7 certifying envelope;

8 (ii) Beginning fourteen (14) days prior to and continuing on election day, proceed to
9 certify the mail ballots.

10 (2) Notice of these sessions shall be given to the public by announcements ~~in newspapers~~
11 ~~of general circulation published~~ on the board of elections and the secretary of state's website at
12 least twenty-four (24) hours before the commencing of any session. All ~~candidates for state and~~
13 ~~federal office, as well as all state party chairpersons~~ major political parties, shall be given notice
14 by telephone or otherwise of sessions ~~the day on which ballots effecting that candidate's district~~
15 ~~will be certified~~; provided, that failure to effect the notice shall in no way invalidate the ballots.

16 (b) This processing shall be done within a railed space in the room in which it takes
17 place, and the board shall admit within the railed space, in accordance with those rules that the
18 board shall adopt, to witness the processing and certification of the ballots, the interested voter or
19 the voter's representative, the candidates, or at least one representative of each candidate for

1 whom votes are at the time being processed, and an equal number of representatives of each
2 political party. These representatives shall be authorized in writing by the voter, the candidate, or
3 the chairperson of the state committee of the political party, respectively, as the case may be. The
4 board shall also, in accordance with these rules, admit representatives of the press and
5 newscasting agencies and any other persons that it deems proper.

6 (c) At these sessions, and before certifying any ballot, the state board shall:

7 (1) Determine the city or town, in which the voter cast his or her ballot and classify
8 accordingly; and

9 (2) Compare the name, residence, and signature of the voter with the name, residence,
10 and signature on the ballot application for mail ballots and satisfy itself that both signatures are
11 identical.

12 ~~(d) If upon completion of the certification of a mail ballot no objection has been raised~~
13 ~~against the certification of the ballot, the outer envelope shall be discarded. However, if an~~
14 ~~objection has been raised that entails further consideration and determination by the board, the~~
15 ~~outer envelope shall remain attached to the certifying inner envelope for identification purposes.~~

16 ~~(e)~~(d) The board shall establish guidelines setting forth the grounds for challenging the
17 certification of mail ballots. These guidelines shall recognize that if a ballot can be reasonably
18 identified to be that of the voter it purports to be, and if it can reasonably be determined that the
19 voter was eligible to vote by mail ballot and if the requirements of section 17-20-2.1 were
20 complied with, it should not be subject to frivolous or technical challenge. The burden of proof in
21 challenging a mail ballot as not obtained and/or cast in conformance with this chapter is on the
22 person challenging the ballot. Once the irregularity is shown, the burden of proof shall shift to the
23 person defending the ballot to demonstrate that it is the ballot of the voter it purports to be, that
24 the voter was eligible to vote by mail ballot, and that all of the applicable requirements of section
25 17-20-2.1 were complied with. The guidelines shall be adopted at a public meeting of the board
26 and shall be made available prior to the start of the certification process for mail ballots.

27 ~~(f)~~(e) After processing and certification of the mail ballots, they shall be separated in
28 packages in accordance with their respective cities and towns, in the presence of the board and all
29 other interested parties. Thereupon, in each instance the board shall open the enclosing envelope,
30 and without looking at the votes cast on the enclosed ballot, shall remove the ballot from the
31 envelope. The state board shall proceed to count the ballots on election day through the use of a
32 central count optical scan unit with the same effect as if the ballots had been cast by the electors
33 in open town or district meetings.

34 ~~(g)~~(f) When a local election is held at a time other than in conjunction with a statewide

1 election, the state board, after the processing and certification of the mail ballots cast in the local
2 election, shall package the local ballots to be promptly delivered in sealed packages, bearing upon
3 the seals the signatures of the members of the board, to the appropriate local board which shall
4 [a]thereupon proceed to count the ballots in the same manner and with the same effect as state
5 mail ballots are counted by the state board.

6 ~~(h)~~(g) When a local election is held in New Shoreham at a time other than in conjunction
7 with a statewide election, the state board, after the processing and certification of the mail ballots
8 cast in the local election, shall have the authority to count the ballots in the same manner and with
9 the same effect as state mail ballots are counted by the state board in a statewide election. Once
10 the ballots are counted, the results shall be sent via facsimile to the local board in New Shoreham.

11 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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RELATING TO ELECTIONS -- MAIL BALLOTS

1 This act would change how public and private announcements are given by the board of
2 elections concerning the opening and counting of ballots. It would also delete references to the
3 discarding of the mail ballot envelopes.

4 This act would take effect upon passage.

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