

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[Second Reprint]

ASSEMBLY, No. 5176

STATE OF NEW JERSEY

DATED: MAY 18, 2023

The Assembly Appropriations Committee reports favorably Assembly Bill No. 5176 (2R).

This bill requires county clerks, in consultation with county boards of elections, to periodically report the unofficial tally of election results on the night of any primary and general election and until the final tally thereafter.

Under current law, district boards of elections are required to post a notice every two hours on election day indicating the cumulative number of voters who have voted in the election by machine and provisional ballot. Current law also requires that the early voting and vote-by-mail voting results be reported at the election district level, unless such reporting would violate the privacy of the voter's vote, in which case the results are required to be reported in a manner that protects the voter's privacy.

This bill directs each county clerk, in consultation with the county board of elections of that county, to periodically report the unofficial tally of the election by 11:59 p.m. on the day of each primary and general election and by 9 p.m. of every day thereafter until all eligible ballots have been counted and the election is certified, but the bill would not require the county board of elections in each county to conduct the count of ballots on a daily basis. Each report required by the bill would detail, at the legislative district, municipal, and county levels, the following categories of information:

(a) for the in-person early voting period, the number of early voting machines or voting equipment deployed, the number of early voting machines or voting equipment not included in the tally, and the total number of votes cast during the early voting period;

(b) for the election day vote, the number of election day voting machines or voting equipment deployed, the number of election day voting machines or voting equipment not included in the tally, and the total number of votes cast in person on election day; and

(c) for the vote-by-mail vote, the number of vote-by-mail ballots that have been issued and received into the Statewide Voter Registration System, as well as the vote-by-mail ballots that have been tallied and that remain to be processed.

The bill, as amended, also requires each county clerk, in consultation with the county board of elections of that county, to send the periodic reports to the Secretary of State. Upon receiving each report, the Secretary of State would provide in an easily identifiable location on the Internet site of the Division of Elections, access to the county by county totals for each voting category included in the reports. The bill specifies that the unofficial tally of election results and the daily reports would not be interpreted to serve as the legal basis for the contest of any election. The bill directs the Secretary of State, in consultation with county clerks and county boards of elections, to promulgate uniform guidelines for all county clerks to follow in creating the reports and postings required by the bill. The bill requires the Secretary of State to develop a template for standardized reporting for all counties to follow.

The bill would require the reporting, on the day after each primary and general election and by 9 p.m. of every day thereafter, of the total number of provisional ballots cast during the early voting period and on election day, which unofficial report would be generated using the electronic poll book software. The bill would also require the reporting, beginning on the seventh day after each primary and general election, of the number of eligible provisional ballots that have been received, to be updated with the number of eligible provisional ballots that have been counted, until all eligible provisional ballots have been counted and the election is certified.

Under the bill, the district level results for the in-person early voting period, the election day vote, and the vote-by-mail vote would be reported on the county clerk's Internet site upon certification of the results of a primary or general election. Under the bill, whenever the reporting requirements would cause a voter's privacy to be violated, the election results would be reported in a manner that maintains the privacy of the vote, provided that the election results posted on the respective websites would contain a disclosure stating that the results reported for some individual districts reflect measures to protect the privacy of the vote while the general tally accurately reflects the results.

The bill appropriates \$1.5 million from the General Fund to the Department of State for implementation purposes. The bill would take effect after the 2023 primary election and would apply to the 2023 general election and all elections thereafter.

FISCAL IMPACT:

The Office of Legislative Services (OLS) estimates that requiring county clerks to periodically report the unofficial tally of election results to the public and the Secretary of State on the night of any election and everyday thereafter until the election is certified and requiring the Secretary of State to develop a template for standardized reporting for counties to follow may result in indeterminate

expenditure increases for local governments and the State. The OLS estimates that State expenditures will total up to \$1.5 million in the year after the bill's enactment, and several hundred thousand dollars in every year thereafter for program optimization, maintenance, staffing, and technology costs. The OLS does not have the data to estimate potential local government costs; thus, a comprehensive estimate of local government expenditure increases, and any related reimbursement from the State they may receive for these expenditures, cannot be made at this time.