

19:13-20

LEGISLATIVE HISTORY CHECKLIST
Compiled by the NJ State Law Library

NJSA: 19:13-20 et al

(Legislature-
filling vacancies--
procedure)

LAWS OF: 1988

CHAPTER: 126

Bill No: A1202

Sponsor(s): Ronney

Date Introduced: Pre-filed

Committee: Assembly: State Government

Senate: State Government, Federal & Interstate Relations &
Veterans Affairs

Amended during passage: Yes Amendments during passage
denoted by asterisks.

Date of Passage: Assembly: March 7, 1988
Senate: August 8, 1988

Date of Approval: September 16, 1988

Following statements are attached if available:

Sponsor statement: Yes

Committee Statement: Assembly: Yes
Senate: Yes

Fiscal Note: No

Veto Message: No

Message on signing: Yes

Following were printed:

Reports: No

Hearings: No

DO NOT REMOVE FROM LIBRARY

(over)

Constitutional amendment, A C R 140, as mentioned in statements:

Approved in November election--see attached.

974.90 New Jersey. Legislature. General Assembly Committee on
E38 State Government.
1988 Public hearing on A C R 40, held 2-8-88. Trenton, 1988.

KBG/SLJ

§§7-10
C.19:27-11.1 to
19:27-11.4
§11 Repealer
§12 Note to
all sections

P.L. 1988, CHAPTER 126, *approved September 16, 1988*

1988 Assembly No. 1202 IR

1 **AN ACT** concerning the filling of vacancies in the Legislature,
amending R.S. 19:13-20, R.S. 19:27-4, R.S. 19:27-5, R.S.
3 19:27-8, R.S. 19:27-9 and R.S. 19:27-11, supplementing
chapter 3 of Title 19 of the Revised Statutes and repealing
5 R.S. 19:3-28 and section 4 of P.L. 1981, c. 429.

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

9 1. R.S. 19:13-20 is amended to read as follows:

11 19:13-20. In the event of a vacancy, howsoever caused, among
candidates nominated at primaries, which vacancy shall occur not
later than the 51st day before the general election, or in the
13 event of inability to select a candidate because of a tie vote at
such primary, a candidate shall be selected in the following
15 manner:

17 a. (1) In the case of an office to be filled by the voters of the
entire State, the candidate shall be selected by the State
committee of the political party wherein such vacancy has
19 occurred.

21 (2) In the case of an office to be filled by the voters of a single
and entire county, the candidate shall be selected by the county
committee in such county of the political party wherein such
23 vacancy has occurred.

25 (3) In the case of an office to be filled by the voters of a
portion of the State comprising all or part of two or more
counties, the candidate shall be selected by those members of the
27 county committees of the party wherein the vacancy has
occurred who represent those portions of the respective counties
29 which are comprised in the district from which the candidate is
to be elected.

31 (4) In the case of an office to be filled by the voters of a
portion of a single county, the candidate shall be selected by
33 those members of the county committee of the party wherein the

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:
Assembly ASG committee amendments adopted February 1, 1988.

1 vacancy has occurred who represent those portions of the county
which are comprised in the district from which the candidate is
3 to be elected.

At any meeting held for the selection of a candidate under
5 this subsection, a majority of the persons eligible to vote
thereat shall be required to be present for the conduct of any
7 business, and no person shall be entitled to vote at that meeting
who is appointed to the State committee or county committee
9 after the seventh day preceding the date of the meeting.

In the case of a meeting held to select a candidate for other
11 than a Statewide office, the chairman of the meeting shall be
chosen by majority vote of the persons present and entitled to
13 vote thereat. The chairman so chosen may propose rules to
govern the determination of credentials and the procedures
15 under which the meeting shall be conducted, and those rules
shall be adopted upon a majority vote of the persons entitled to
17 vote upon the selection. If a majority vote is not obtained for
those rules, the delegates shall determine credentials and
19 conduct the business of the meeting under such other rules as
may be adopted by a majority vote. All contested votes taken
21 at the selection meeting shall be by secret ballot.

b. (1) Whenever in accordance with subsection a. of this
23 section members of two or more county committees are
empowered to select a candidate to fill a vacancy, it shall be
25 the responsibility of the chairmen of said county committees,
acting jointly not later in any case than the seventh day
27 following the occurrence of the vacancy, to [call together] give
notice to each of the members of their respective committees
29 who are so empowered of the date, time and place of the
meeting at which the selection will be made, that meeting to be
31 held at least one day following the date on which the notice is
given.

(2) Whenever in accordance with the provisions of subsection
33 a. of this section members of a county committee are
empowered to select a candidate to fill a vacancy, it shall be
35 the responsibility of the chairman of such county committee,
37 not later in any case than the seventh day following the
occurrence of the vacancy, to [call together] give notice to each
39 of the members of the committee who are so empowered of the

1 date, time and place of the meeting at which the selection will
2 be made, that meeting to be held at least one day following the
3 date on which the notice is given.

4 (3) A county committee chairman or chairmen who call a
5 meeting pursuant to paragraph (1) or (2) of this subsection shall
6 not be entitled to vote upon the selection of a candidate at such
7 meeting unless he or they are so entitled pursuant to subsection
8 a.

9 (4) Whenever in accordance with the provisions of subsection
10 a. of this section the State committee of a political party is
11 empowered to select a candidate to fill a vacancy, it shall be
12 the responsibility of the chairman of that State committee to
13 give notice to each of the members of the committee of the
14 date, time and place of the meeting at which the selection will
15 be made, that meeting to be held at least one day following the
16 date on which the notice is given.

17 c. Whenever a selection is to be made pursuant to this section
18 to fill a vacancy resulting from inability to select a candidate
19 because of a tie vote at a primary election, the selection shall
20 be made from among those who have thus received the same
21 number of votes at the primary.

22 d. A selection made pursuant to this section shall be made
23 not later than the 48th day preceding the date of the general
24 election, and a statement of such selection shall be filed with
25 the Secretary of State or the appropriate county clerk, as the
26 case may be, not later than said 48th day, and in the following
27 manner:

28 (1) A selection made by a State committee of political party
29 shall be certified to the Secretary of State by the State
30 chairman of the political party.

31 (2) A selection made by a county committee of a political
32 party, or a portion of the members thereof, shall be certified to
33 the county clerk of the county by the county chairman of such
34 political party; except that when such selection is of a candidate
35 for the Senate or General Assembly or the United States House
36 of Representatives the county chairman shall certify the
37 selection to the State chairman of such political party, who shall
38 certify the same to the Secretary of State.

39 (3) A selection made by members of two or more county
40 committees of a political party acting jointly shall be certified

1 by the chairmen of said committees, acting jointly, to the State
2 chairman of such political party, who shall certify the same to
3 the Secretary of State.

4 e. A statement filed pursuant to subsection d. of this section
5 shall state the residence and post office address of the person so
6 selected, and shall certify that the person so selected is
7 qualified under the laws of this State to be a candidate for such
8 office, and is a member of the political party filling the
9 vacancy. Accompanying the statement the person endorsed
10 therein shall file a certificate stating that he is qualified under
11 the laws of this State to be a candidate for the office
12 mentioned in the statement, that he consents to stand as a
13 candidate at the ensuing general election and that he is a
14 member of the political party named in said statement, and
15 further that he is not a member of, or identified with, any other
16 political party or any political organization espousing the cause
17 of candidates of any other political party, to which shall be
18 annexed the oath of allegiance prescribed in R.S. 41:1-1 duly
19 taken and subscribed by him before an officer authorized to take
20 oaths in this State. The person so selected shall be the
21 candidate of the party for such office at the ensuing general
22 election.

23 (cf: P.L. 1985, c. 92, s. 14).

24 2. R.S. 19:27-4 is amended to read as follows:

25 19:27-4. When any vacancy happens in the representation of
26 this State in the United States Senate or in the House of
27 Representatives, the Governor shall issue a writ of election to
28 fill the same unless the term of service of the person whose
29 office shall become vacant will expire within six months next
30 after the happening of the vacancy and except as hereinafter
31 provided.

32 [When any vacancy happens in the Senate or General
33 Assembly, the house in which such vacancy happens shall direct
34 by a writ, issued at any session of the house within the 10 days
35 following the occurrence of the vacancy but no later than the
36 the next session immediately following the 10-day period, that a
37 special election be held to fill the same, but if the vacancy
38 happens during the last three months of the second annual
39 session of the legislative year, the house may issue a writ as
40 herein provided. If such vacancy happens subsequent to a sine

1 die adjournment of the Legislature, the Governor shall forthwith
2 issue a writ of election to fill the vacancy, unless the term of
3 service of the person whose office shall have become vacant will
4 expire with the expiration of the legislative year in which the
5 vacancy happens and he shall be of the opinion that the services
6 of a person in the office then vacant will not be required during
7 the legislative year, or the residue thereof. The failure of the
8 Governor to issue a writ for filling the vacancy shall not
9 preclude the house in which it may have happened from
10 directing a writ of election to be issued for filling the same, if it
11 judge this advisable.]

(cf: P.L. 1981, c. 429, s. 2).

13 3. R.S. 19:27-5 is amended to read as follows:

14 19:27-5. Every writ of election issued under the provisions of
15 this title shall be of the nature of a proclamation, and shall be
16 signed by the Governor [, or the President of the Senate, or the
17 Speaker of the House of Assembly, as the case may be].

(cf: R.S. 19:27-5).

19 4. R.S. 19:27-8 is amended to read as follows:

20 19:27-8. In case such vacancy happens in the representation
21 of [any county in the Senate or Assembly, the Secretary of State
22 shall make, or cause to be made, copies of such writ, certify the
23 same to be true and correct under his hand, and cause the copies
24 thus certified to be delivered to the county clerk and to the
25 county board of the county, and in case such vacancy happens in
26 the representation of] this state in the United States Senate,
27 [he] the Secretary of State shall cause as many copies of such
28 writ to be made as there are counties in the State, and in case
29 such vacancy happens in the representation of this State in the
30 House of Representatives, he shall cause as many copies of such
31 writ to be made as there shall be counties in the vacant
32 congressional district, certify each of the same to be true under
33 his hand and cause them to be delivered to the county clerk and
34 county board of each of such counties.

35 (cf: R.S. 19:27-8).

36 5. R.S. 19:27-9 is amended to read as follows:

37 19:27-9. The county board of each of such counties shall
38 forthwith after the receipt of a copy of such writ cause the
39 same to be published at least once a week until the time of such

1 primary, general or special election in at least two newspapers
printed and published in the county, if so many there be.

3 The publication of the writs shall be at the expense of the
State if the election shall be held to fill a vacancy in the
5 representation of the State in the United States Senate or in the
House of Representatives.

7 (cf: P.L. 1981, c. 429, s. 5).

6. R.S. 19:27-11 is amended to read as follows:

9 19:27-11. [In the event of any vacancy in the Senate or
General Assembly, each political party shall select a candidate
11 for the office in question in the manner prescribed in R.S.
19:13-20 for selecting candidates to fill vacancies among
13 candidates nominated at primary elections, and shall do so
within seven days of the issuance of the writ of election.

15 A statement of such selection shall be filed with the
Secretary of State not later than seven days after the issuance
17 of the writ of election.]

In the event of any vacancy in any county or municipal office,
19 which vacancy shall occur after the 11th day preceding the last
day for filing petitions for nominations for the primary election
21 and on or before the 51st day preceding the general election,
each political party may select a candidate for the office in
23 question in the manner prescribed in R.S. 19:13-20 for selecting
candidates to fill vacancies among candidates nominated at
25 primary elections. A statement of such selection shall be filed
with the county clerk not later than the close of business of the
27 48th day preceding the date of the general election.

Beside the selection of candidates by each political party as
29 before provided, candidates may also be nominated by petition
in a similar manner as herein provided for direct nomination by
31 petition for the general election but the petition shall be filed
with the county clerk [or the Secretary of State, as the law may
33 require,] at least 48 days prior to such general election.

[When the vacancy occurs in the Senate or General Assembly,
35 the county clerk of each county which is comprised in whole or
part in the Senate or Assembly district shall forthwith give
37 notice thereof to the chairman of the county committee of each
political party and in counties of the first class to the county
39 board.]

1 When the vacancy occurs in a county office the county clerk
shall forthwith give notice thereof to the chairman of the
3 county committee of each political party and in counties of the
first class to the county board, and in case the vacancy occurs in
5 a municipal office the municipal clerk shall forthwith give
notice thereof to the county clerk, the chairman of the county
7 committee of each political party and in counties of the first
class the county board.

9 The county clerk shall print on the ballots for the territory
affected, in the personal choice column, the title of office and
11 leave a proper space under such title of office; and print the
title of office and the names of such persons as have been duly
13 nominated, in their proper columns.

(cf: P.L. 1985, c. 92, s. 26).

15 7. (New section) When any vacancy happens in the Legislature
otherwise than by expiration of term, it shall be filled by
17 election for the unexpired term only at the next general election
occurring not less than 51 days after the occurrence of the
19 vacancy, except that no such vacancy shall be filled at the
general election which immediately precedes the expiration of
21 the term in which the vacancy occurs. In the event a vacancy
eligible to be filled by election hereunder occurs on or before
23 the sixth day preceding the last day for filing petitions for
nomination for the primary election, such petitions may be
25 prepared and filed for nomination in that primary election in the
manner provided by article 3 of chapter 23 of this Title. In the
27 event the vacancy occurs after that sixth day preceding the last
day for filing petitions for nomination for the primary election,
29 or if the vacancy occurs on or before the sixth day preceding the
last day for filing petitions for nomination for the primary
31 election but no such petition has been filed with respect to a
given political party, each political party, or that party
33 respectively, may select a candidate for the office in question in
the manner prescribed in subsections a. and b. of R.S. 19:13-20
35 for selecting candidates to fill vacancies among candidates
nominated at primary elections. A statement of such selection
37 under R.S. 19:13-20 shall be filed with the Secretary of State
not later than the 48th day preceding the date of the general
39 election.

1 Beside the selection of candidates by each political party,
2 candidates may also be nominated by petition in a manner
3 similar to direct nomination by petition for the general election;
4 but if the candidate of any party to fill the vacancy will be
5 chosen at a primary election, such petition shall be filed with
6 the Secretary of State at least 55 days prior to the primary
7 election; and if no candidate of any party will be chosen at a
8 primary election, such petition shall be filed with the Secretary
9 of State not later than 12 o'clock noon of the day on which the
10 first selection meeting by any party is held under this section to
11 select a nominee to fill the vacancy.

12 When the vacancy occurs in the Senate or General Assembly,
13 the county clerk of each county which is comprised in whole or
14 part in the Senate or General Assembly district shall forthwith
15 give notice thereof to the chairman of the county committee of
16 each political party and in counties of the first class to the
17 county board.

18 The county clerk shall print on the ballots for the territory
19 affected, in the personal choice column, the title of office and
20 leave a proper space under such title of office; and print the
21 title of office and the names of such persons as have been duly
22 nominated, in their proper columns.

23 8. (New section) In the case of a vacancy occurring with
24 respect to a member of the Senate or General Assembly who
25 was elected as the candidate of a political party which at the
26 last preceding general election held for all members of the
27 General Assembly received the largest number of votes or the
28 next largest number of votes in the State for members of the
29 General Assembly, for the interim period pending the election
30 and qualification of a permanent successor to fill the vacancy,
31 or for the interim period constituting the remainder of the term
32 in the case of a vacancy occurring which cannot be filled
33 pursuant to section 7 of this amendatory and supplementary act
34 at a general election, the vacancy shall be filled within 35 days
35 by a member of the political party of which the person who
36 vacated the office was the candidate at the time of his election
37 thereto. The interim successor shall be selected by the
38 appropriate political party's county committee or committees
39 in the same manner prescribed in subsections a. and b. of R.S.
19:13-20 for selecting candidates to fill vacancies among

1 candidates nominated at primary elections, and a statement of
the selection of that successor shall be certified to and filed
3 with the Secretary of State in the same manner prescribed by
subsection d. of that section for certifying statements
5 concerning the selection of such candidates.

¹The Secretary of State shall thereupon issue to the interim
7 successor a certificate of selection based upon that filed
statement of selection, and shall sign his name and affix the seal
9 of the State thereto, and shall without delay deliver that
statement to the person so selected. The Secretary of State
11 shall also prepare a certified statement of selection, similar in
form to the certificate but addressed to the presiding officer of
13 the house of the Legislature in which the vacancy occurred, and
shall sign the statement, affix the seal of the State thereto, and
15 promptly deliver the same to the President of the Senate or
Speaker of the General Assembly as appropriate.¹

17 9. (New section) Members of the political party's county
committee or committees who are empowered to select a
19 candidate for the vacated office shall only nominate a candidate
from the floor during the selection meeting called under R.S.
21 19:13-20 by the chairman or chairmen of the committee or
committees and shall present written evidence of the nominee's
23 acceptance of the nomination.

25 10. (New section) In the case of a vacancy occurring with
respect to a member of the Senate or General Assembly who
was not elected as the candidate of such a political party, the
27 office shall remain vacant pending expiration of the term.

29 11. R.S. 19:3-28 and section 4 of P.L. 1981, c. 429 (C.
19:27-6.1) are repealed.

31 12. This act shall take effect immediately but shall remain
inoperative until the adoption of Assembly Concurrent
Resolution No. 40 of 1988 (now pending before the Legislature)
33 or legislation having like effect.

35 ELECTIONS

Legislature

37

39 Establishes a new procedure for the filling of legislative
vacancies.

**SENATE STATE GOVERNMENT, FEDERAL AND INTERSTATE
RELATIONS AND VETERANS' AFFAIRS COMMITTEE**

STATEMENT TO

[FIRST REPRINT]

ASSEMBLY, No. 1202

STATE OF NEW JERSEY

DATED: AUGUST 4, 1968

The Senate State Government, Federal and Interstate Relations and Veterans' Affairs Committee reports favorably Assembly Bill No. 1202 (1R).

This bill revises the procedure for filling vacancies in the membership of the Legislature.

Under current law, a legislative vacancy is filled at a special election called by means of a writ issued by the House in which the vacancy has occurred; if the vacancy occurs after final adjournment of a legislative term, the Governor is authorized, but not required, to issue such a writ of election. The seat remains vacant until filled at this special election, which is required to be held not less than 65 nor more than 71 days following the date on which the writ is issued.

Under this bill, elections to fill legislative vacancies will be held only at general elections, namely, the next general election occurring not less than 51 days after the occurrence of the vacancy. However, no election to fill a vacancy would be held at the general election which immediately precedes the expiration of the term in which the vacancy occurs. For the interim period pending the election of a successor to fill the vacancy, or for the entire remainder of a term where the vacancy is not to be filled by election, the vacancy will be filled within 35 days of its occurrence at a selection meeting held by the political party of which the person vacating the office was the candidate at the time of his election. The meeting would be held among those members of the county committee or committees of that party who represent the election districts which comprise the legislative district in which the vacancy has occurred; such a procedure is used under current law to fill vacancies among primary nominees for nonfederal offices other than the office of Governor.

The legislation makes certain specific provisions regarding nomination of candidates in a vacancy filling election. Where a vacancy exists to be filled by election occurs after the sixth day preceding the last day for filing petitions for nomination for the primary election, the candidate of each party in that election would likewise be chosen by county party convention in the same manner as an interim appointee would be chosen. Where such a vacancy occurred on or before that sixth day, the candidates for successor to the vacating officeholder would be chosen in the primary election.

The bill also amends R.S.19:13-20, the statute referred to above which will govern the holding of a selection meeting. The amendments require that notice of the meeting be given not later than the seventh day following the occurrence of the vacancy, impose a quorum requirement for the conduct of selection meeting business, provide that a person holding membership on a county committee by appointment shall not vote at the meeting unless the appointment was made on or before the seventh day preceding the date of the meeting, and require that any contested matters shall be decided by secret ballot.

This bill will take effect if the voters approve at the general election in November 1988 ACR-40, which amends the Constitution to provide for this method of filling legislative vacancies.

ASSEMBLY STATE GOVERNMENT COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1202

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 28, 1968

The Assembly State Government Committee reports favorably and with committee amendments Assembly Bill No. 1202.

This bill revises the procedure for filling vacancies in the membership of the Legislature.

Under current law, a legislative vacancy is filled at a special election called by means of a writ issued by the House in which the vacancy has occurred; if the vacancy occurs after final adjournment of a legislative term, the Governor is authorized, but not required, to issue such a writ of election. The seat remains vacant until filled at this special election, which is required to be held not less than 65 nor more than 71 days following the date on which the writ is issued.

Under this bill, elections to fill legislative vacancies will be held only at general elections, namely, the next general election occurring not less than 51 days after the occurrence of the vacancy. However, no election to fill a vacancy would be held at the general election which immediately precedes the expiration of the term in which the vacancy occurs. For the interim period pending the election of a successor to fill the vacancy, or for the entire remainder of a term where the vacancy is not to be filled by election, the vacancy will be filled within 35 days of its occurrence at a selection meeting held by the political party of which the person vacating the office was the candidate at the time of his election. The meeting would be held among those members of the county committee or committees of that party who represent the election districts which comprise the legislative district in which the vacancy has occurred; such a procedure is used under current law to fill vacancies among primary nominees for nonfederal offices other than the office of Governor.

The legislation makes certain specific provisions regarding nomination of candidates in a vacancy filling election. Where a vacancy eligible to be filled by election occurs after the sixth day preceding the last day for filing petitions for nomination for the primary election, the candidate of each party in that election would likewise be chosen by county party convention in the same manner as an interim appointee would be chosen. Where such a vacancy occurred on or before that sixth day, the candidates for successor to the vacating officeholder would be chosen in the primary election.

The bill also amends R.S.19:13-20, the statute referred to above which will govern the holding of a selection meeting. The amendments require that notice of the meeting be given not later than the seventh day following the occurrence of the vacancy, impose a quorum requirement for the conduct of selection meeting business, provide that a person holding membership on a county committee by appointment shall not vote at the meeting unless the appointment was made on or before the seventh day preceding the date of the meeting, and require that any contested matters shall be decided by secret ballot.

This bill was pre-filed for introduction in the 1988 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

COMMITTEE AMENDMENTS

The Committee amended the bill to provide for (1) issuance by the Secretary of State of a certificate of selection to an interim successor chosen under the bill to fill a legislative vacancy, and (2) transmittal by the Secretary of State of notice of the selection to the presiding officer of the house of the Legislature in which the vacancy had occurred.

1 pursuant to section 7 of this amendatory and supplementary act
2 at a general election, the vacancy shall be filled within 35 days
3 by a member of the political party of which the person who
4 vacated the office was the candidate at the time of his election
5 thereto. The interim successor shall be selected by the
6 appropriate political party's county committee or committees in
7 the same manner prescribed in subsections a. and b. of R.S.
8 19:13-20 for selecting candidates to fill vacancies among
9 candidates nominated at primary elections, and a statement of
10 the selection of that successor shall be certified to and filed
11 with the Secretary of State in the same manner prescribed by
12 subsection d. of that section for certifying statements
13 concerning the selection of such candidates.

14 9. (New section) Members of the political party's county
15 committee or committees who are empowered to select a
16 candidate for the vacated office shall only nominate a candidate
17 from the floor during the selection meeting called under R.S.
18 19:13-20 by the chairman or chairmen of the committee or
19 committees and shall present written evidence of the nominee's
20 acceptance of the nomination.

21 10. (New section) In the case of a vacancy occurring with
22 respect to a member of the Senate or General Assembly who
23 was not elected as the candidate of such a political party, the
24 office shall remain vacant pending expiration of the term.

25 11. R.S. 19:3-28 and section 4 of P.L. 1981, c. 429 (C.
26 19:27-6.1) are repealed.

27 12. This act shall take effect immediately but shall remain
28 inoperative until the adoption of Assembly Concurrent
29 Resolution No. 33 of 1986 (now pending before the Legislature)
30 or legislation having like effect.

31

32

STATEMENT

33
34
35 This bill revises the procedures for filling vacancies in the
membership of the Legislature.

1

ELECTIONS

Legislature

3

**Establishes a new procedure for the filling of legislative
vacancies.**

5



OFFICE OF THE GOVERNOR

NEWS RELEASE

Governor Thomas H. Kean
TRENTON, N.J. 08625
Release:

CN-001
Contact:

JOHN SAMERJAN

FRI., SEPT. 13, 1988

609-292-8956 OR 292-6000 EXT. 207

Governor Thomas H. Kean today signed the following legislation:

✓ A-1202/S-2369, sponsored by Assemblyman John Rooney, R-Bergen establishes a new procedure for the filling of legislative vacancies by eliminating special elections.

Vacancies would now be filled temporarily by the political party holding the seat, with the remainder of the term filled at the next regularly scheduled November election.

The legislation will become effective if the voters adopt ACR-40, which will be on the ballot in November. ACR-40 would amend the State Constitution to permit county political committees to temporarily fill legislative vacancies.

✓ A-1366/S-1570, sponsored by Assemblywoman Maureen Ogden, R-Essex and Senator Frank Pallone, D-Monmouth appropriates \$90,000 to establish a Natural Heritage Program in the Division of Parks and Forestry in the Department of Environmental Protection.

The legislation is effective immediately.

#####

PUBLIC HEARING

before

ASSEMBLY STATE GOVERNMENT COMMITTEE

ASSEMBLY CONCURRENT RESOLUTION-40
(Amends the State Constitution to Eliminate the Need
to Hold Special Elections to Fill Legislative Vacancies)

P
2 VA

February 8, 1988
Room 368
State House Annex
Trenton, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Assemblyman Robert J. Martin, Chairman
Assemblyman William E. Schluter
Assemblyman Anthony J. Cimino

ALSO PRESENT:

Donald S. Margeson
Office of Legislative Services
Aide, Assembly State Government Committee

974.90
E38
1788
copy 3

* * * * *

Hearing Recorded and Transcribed by
Office of Legislative Services
Public Information Office
Hearing Unit
State House Annex
CN 068
Trenton, New Jersey 08625

ASSEMBLY CONCURRENT RESOLUTION No. 40

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1988 SESSION

By Assemblyman ROONEY

1 A *CONCURRENT RESOLUTION* proposing to amend Article IV,
Section IV, paragraph 1 of the Constitution of the State of
3 New Jersey.

5
6 BE IT RESOLVED *by the General Assembly of the State of*
7 *New Jersey (the Senate concurring):*

8 1. The following proposed amendment to the Constitution of
9 the State of New Jersey is hereby agreed to:

11 PROPOSED AMENDMENT

13 Amend Article IV, Section IV, paragraph 1 of the Constitution
to read as follows:

15 1. Any vacancy in the Legislature occasioned [by death,
resignation or] otherwise than by expiration of term shall be
17 filled by election for the unexpired term only[, as may be
provided by law] at the next general election occurring not less
19 than 51 days after the occurrence of the vacancy, except that
21 no vacancy shall be filled at the general election which
23 immediately precedes the expiration of the term in which the
25 vacancy occurs. For the interim period pending the election and
27 qualification of a successor to fill the vacancy, or for the
remainder of the term in the case of a vacancy occurring which
cannot be filled pursuant to the terms of this paragraph at a
general election, the vacancy shall be filled within 35 days by
the members of the county committee of the political party of
which the incumbent was the nominee from the municipalities or

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.

1 districts or units thereof which comprise the legislative
2 district. [Each house shall direct a writ of election to fill any
3 vacancy in its membership; but if the vacancy shall occur during
4 a recess of the Legislature, the writ may be issued by the
5 Governor, as may be provided by law.]

6
7 2. When this proposed amendment to the Constitution is
8 finally agreed to, pursuant to Article IX, paragraph 1 of the
9 Constitution, it shall be submitted to the people at the next
10 general election occurring more than three months after such
11 final agreement and shall be published at least once in at least
12 one newspaper of each county designated by the President of the
13 Senate and the Speaker of the General Assembly and the
14 Secretary of State, not less than three months prior to the
15 general election.

16 3. This proposed amendment to the Constitution shall be
17 submitted to the people at that election in the following manner
18 and form:

19 There shall be printed on each official ballot to be used at the
20 general election, the following:

21 a. In every municipality in which voting machines are not
22 used, a legend which shall immediately precede the question, as
23 follows:

24 If you favor the proposition printed below make a cross (X),
25 plus (+) or check (✓) in the square opposite the word "Yes." If
26 you are opposed thereto make a cross (X), plus (+), or check (✓)
27 in the square opposite the word "No."

b. In every municipality the following question:

1
3
5
7
9
11
13
15
17
19
21
23
25
27
29
31
33
35
37
39
41

	YES.	<p>FILLING VACANCIES IN THE LEGISLATURE</p> <p>Shall the amendment of Article IV, Section IV, paragraph I of the Constitution of the State of New Jersey, as agreed to by the Legislature, requiring that a vacancy in the Legislature be filled within 35 days by appointment by the members of the county committee of the political party of which the incumbent was the nominee from the municipalities or districts or units thereof which comprise the legislative district and providing that the appointee shall serve until the election of a successor to fill the vacancy at the next general election occurring not less than 51 days after the occurrence of the vacancy, or until the end of the unexpired term of office if the next general election so occurring immediately precedes the expiration of the term, be adopted?</p>
	NO.	<p>INTERPRETIVE STATEMENT</p> <p>This amendment would require that a vacancy in the Legislature be filled within 35 days by appointment by the members of the county committee of the political party of which the incumbent was the nominee from the municipalities or districts or units thereof which comprise the legislative district and providing that the appointee shall serve until the election of a successor to fill the vacancy at the next general election occurring not less than 51 days after the occurrence of the vacancy, or until the end of the unexpired term of office if the next general election so occurring immediately precedes the expiration of the term.</p>

STATEMENT

1

3 This concurrent resolution proposes an amendment to the
State Constitution to revise its provisions regarding the filling
5 of vacancies in the membership of the Legislature.

7 The Constitution currently requires that any vacancy
occasioned by death, resignation or otherwise shall be filled by
election, with no requirement that election be held at a general
9 election. Under the resolution, a vacancy-filling election may
be held only at the time of the next general election occurring
11 at least 51 days following the occurrence of the vacancy, and if
that is the general election which immediately precedes the end
13 of the term, the vacancy will not be filled by election at all.
That portion of a term not filled by election (that is, during the
15 interim period between the occurrence of the vacancy and
either the general election at which it is filled or the expiration
17 of the term, as appropriate) will be filled through appointment
by those members of the county committee of the vacating
19 incumbent's political party who represent portions of the
legislative districts in which the vacancy has occurred.

21

ELECTIONS

Legislature

23

25

Amends the Constitution to establish a procedure for the filling
27 of legislative vacancies.

ASSEMBLY STATE GOVERNMENT COMMITTEE
STATEMENT TO
ASSEMBLY CONCURRENT RESOLUTION No. 40

STATE OF NEW JERSEY

DATED: JANUARY 28, 1988

The Assembly State Government Committee reports favorably Assembly Concurrent Resolution, No. 40.

This concurrent resolution proposes an amendment to the State Constitution to revise its provisions regarding the filling of vacancies in the membership of the Legislature.

The Constitution currently requires that any vacancy occasioned by death, resignation or otherwise shall be filled by election, but does not require that the election be held at a general election. Under the resolution, a vacancy-filling election shall be held only at the time of the next general election occurring at least 51 days following the occurrence of the vacancy, and if that general election immediately precedes the end of the term of the office vacated, the vacancy will not be filled by election at all. That portion of a term not filled by election (that is, during the interim period between the occurrence of the vacancy and either the general election at which it is filled or the expiration of the term, as appropriate) will be filled through appointment by those members of the county committee of the vacating incumbent's political party who represent the election districts included in the legislative district in which the vacancy has occurred.

This concurrent resolution was pre-filed for introduction in the 1988 session pending technical review. As reported, the resolution includes the changes required by technical review, which has been performed.

TABLE OF CONTENTS

	<u>Page</u>
Doris Weisberg Government Director League of Women Voters of New Jersey	1
Marie Curtis Legislative Vice President League of Women Voters of New Jersey	2
Assemblyman John E. Rooney District 39	4

* * * * *

di: 1-5

ASSEMBLYMAN ROBERT J. MARTIN (Chairman): We want to consider Assemblyman Rooney's ACR-40. At this point in time, we will be receptive to anybody who wishes to speak on that legislation which, as I said, is a Constitutional Amendment to provide a new means for selecting people to fill vacancies in the State Legislature.

Is there anyone here who wishes to speak on that matter? Okay, please come forward. Maybe while we're doing that, just for purposes of the record you can read the Committee roll call.

MR. MARGESON: Chairman Martin?

ASSEMBLYMAN MARTIN: Here.

MR. MARGESON: Assemblywoman Crecco? (no response)
Assemblyman Schluter?

ASSEMBLYMAN SCHLUTER: Here.

MR. MARGESON: Assemblyman Charles? (no response)
Assemblyman Cimino?

ASSEMBLYMAN CIMINO: Here.

ASSEMBLYMAN MARTIN: Okay. Please.

D O R I S W E I S B E R G: I'm Doris Weisberg and I am the Government Director for the League of Women Voters in New Jersey. With me is Marie Curtis who I guess everybody knows is the Legislative Vice President for the League of Women Voters.

What we're going to do is stall here a bit. We have recommended to the League of Women Voters of New Jersey to support this bill. But their board meeting is on Wednesday; this coming Wednesday. We have no reason to feel that our recommendations will not be accepted, because we have been standing back for many years to support this position. However, it is something we do have to go through.

So we would like to just have testimony -- give testimony on the fact that we truly support the concept and the ideas embodied in this bill.

ASSEMBLYMAN MARTIN: Well, even if the League hasn't taken an official position, you as a person of free society can espouse your own points of view, right?

MS. WEISBERG: Well, we're doing-- What we want to say is the League is truly a grass roots organization, and comes to a position only after an issue has been studied and a consensus position reached by a majority of local Leagues responding. In this light, I would like to make some general remarks on the League position. The bill in front of us today will be brought before the State board of the League of Women Voters of New Jersey on February 10 -- Wednesday. Unfortunately, this bill was not received by us in time for consideration in January.

We do support, by constitutional amendment, a process of temporary appointment. The interim appointment should be from the same political party as the previous holder, and hold office until the next general election when a special vote would determine who would serve the remainder of the term. League members are most concerned with filling vacancies promptly. The more democratic process of special elections has some disadvantages that must be considered, specifically, the length of time districts would be without representation and the cost.

Special elections currently cost over one hundred thousand dollars, and we all know, when one or more vacancy occurs, the amount becomes almost prohibitive. We have no specific recommendations at this time, but will continue to follow the legislation in our hope to finally resolve this problem in a fair and equitable way.

M A R I E C U R T I S: (speaking from audience, portions of statement inaudible) I'd just like to reiterate what Doris said. Our basic-- We -- our consensus positions do delineate that we would like faster filling of the vacancies, because we do feel that under-representation is a disadvantage to those citizens involved.

We are concerned with fiscal soundness, and the exorbitant costs of these special elections. And the relatively poor turnout has been a concern. So, for these and many other reasons -- (a few words inaudible) -- we are relatively convinced. We just can't go on the record and say right now, at this point in time, the League of Women Voters supports the legislation. But I firmly believe that 48 hours from now we'll be able to say that.

MS. WEISBERG: We did this, I think once before only, with ACR-77. We don't do this unless, you know, we're pretty sure that we're going to come out winners on Wednesday.

ASSEMBLYMAN MARTIN: Well, the League did support this whole-heartedly last session.

MS. WEISBERG: Yes, in past. Yes we have.

ASSEMBLYMAN MARTIN: Thank you very much. Mr. Rooney.

ASSEMBLYMAN SCHLUTER: Could I question the League?

ASSEMBLYMAN MARTIN: Sure. I'm sorry.

ASSEMBLYMAN SCHLUTER: I note that you talk about the League being in favor of a democratic process for special elections, which means election. When special elections have turnouts of under 7% across-the-board -- mine last year had 3.8% -- don't you agree that this is not democratic and is really--

MS. WEISBERG: Well, that's what we said.

ASSEMBLYMAN SCHLUTER: And the antithesis of a full participation election, and that your support of this bill would avoid that kind of a situation?

MS. WEISBERG: Absolutely. It appears usually to people that to endorse election is the best way. As I said, definitely we feel that the advantages outweigh the special elections. Mostly poor voter turnout is just-- As you say, the majority are not electing by any stretch of the imagination.

MS. CURTIS: And I understand, Assemblyman, you also had a bill on this. We have not, because of the backup of

Legislative Services, we have not been able to get our hands on either of the bills until last week, and we went down and got copies of two inaccurate bills; we finally got the right one. We have one copy which we guard jealously. And we do not have a copy of your bill, unfortunately. When we do, there is nothing to say that we can't look at that and at that point make a decision between the two. But there was no comparison that has been done at this point by the League.

ASSEMBLYMAN SCHLUTER: Let me make myself clear, if I can, that I voted for Mr. Rooney's bill out of Committee. I would be very happy with that, and I would consider my position sort of a backup, if for example, the Constitutional Amendment was not approved by the voters. But only if.

ASSEMBLYMAN MARTIN: One of the things with Mr. Schluter's bill was that it did not require a constitutional amendment. So, if in fact, it didn't pass, he viewed it as something preferable to what we presently have.

MS. CURTIS: Yeah, I suspect that we might also go along with that thinking. But again, we have to get a copy of it.

MS. WEISBERG: We have to see it.

A S S E M B L Y M A N J O H N E. R O O N E Y: I would like to also thank the League for their position. This has been five years that this bill has been in as ACR-33, ACR-78, ACR-40 now. So this is basically three terms that the bill has been in, and all through that time, I've talked to the League and, actually as a dues paying member of the League of Women Voters, I've discussed it at the various meetings that we've gone to. I appreciate their support of the bill. We have to change the way the system is today. We've already spent over \$3 million in the special elections just since 1982. So, it's a waste of money, it's changed only one election out of 27 or 28, and that was, I guess, Senator Gormley's election. The only one that's changed. The others have all been exactly the

way they were -- the same party took the position that was vacant.

This would again leave it to the voters. This Constitutional referendum goes on the ballot this November, and it's up to the voters to decide whether they want the special election or not. So, again it's a democratic choice having the voters change the Constitution.

So, this is the purpose of the bill, and I appreciate your support.

MS. CURTIS: I must mention also, that basically the positions and testimony that Doris gave you today were brought directly through testimony we gave in 1973. That was before we got into this whole thing.

ASSEMBLYMAN ROONEY: That was before this.

MS. CURTIS: Which looked good on the surface at the time, also.

MS. WEISBERG: I was crawling around and I found 1973 testimony. The same thing.

ASSEMBLYMAN ROONEY: It was the results of Abscam. That's why the vacancies occurred at that time.

ASSEMBLYMAN SCHLUTER: Watergate.

ASSEMBLYMAN ROONEY: No, it was Abscam.

ASSEMBLYMAN MARTIN: Is there anyone else who is here to speak on the ACR? (no response) Well, we thank the League of Women Voters, we thank the sponsor of the legislation Assemblyman Rooney, and we will conclude this public hearing, and convene in approximately eight minutes for the regular State Government Committee meeting. Thank you.

(HEARING CONCLUDED)