

19:27-11

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(Freeholders--
vacancies)

LAWS OF: 1990

CHAPTER: 33

Bill No: A854

Sponsor(s): Villapiano and others

Date Introduced: Pre-filed

Committee: Assembly: County Government

Senate: -----

Amended during passage: No

Date of Passage: Assembly: April 26, 1990

Senate: April 26, 1990

Date of Approval: June 4, 1990

Following statements are attached if available:

Sponsor statement: Yes

Committee Statement: Assembly: Yes

Senate: No

Fiscal Note: No

Veto Message: No

Message on signing: No

Following were printed:

Reports: No

Hearings: No

See newspaper clipping--attached:

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P.L.1990, CHAPTER 33, approved June 4, 1990
1990 Assembly No. 854

1 AN ACT concerning vacancies on boards of chosen freeholders,
2 amending R.S.19:27-11, supplementing chapter 20 of Title 40
3 of the Revised Statutes and P.L.1972, c.154 (C.40:41A-1 et
4 seq.), and repealing sections 1 and 2 of P.L.1979, c.340 and
5 section 15 of P.L.1978, c.141.
6

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

9 1. R.S.19:27-11 is amended to read as follows:
10 19:27-11. In the event of any vacancy in any county or
11 municipal office, except for the office of a member of the board
12 of chosen freeholders, which vacancy shall occur after the 11th
13 day preceding the last day for filing petitions for nominations for
14 the primary election and on or before the 51st day preceding the
15 general election, each political party may select a candidate for
16 the office in question in the manner prescribed in R.S.19:13-20
17 for selecting candidates to fill vacancies among candidates
18 nominated at primary elections. A statement of such selection
19 shall be filed with the county clerk not later than the close of
20 business of the 48th day preceding the date of the general
21 election.

22 Beside the selection of candidates by each political party as
23 before provided, candidates may also be nominated by petition in
24 a similar manner as herein provided for direct nomination by
25 petition for the general election but the petition shall be filed
26 with the county clerk at least 48 days prior to such general
27 election.

28 When the vacancy occurs in a county office the county clerk
29 shall forthwith give notice thereof to the chairman of the county
30 committee of each political party and in counties of the first
31 class to the county board, and in case the vacancy occurs in a
32 municipal office the municipal clerk shall forthwith give notice
33 thereof to the county clerk, the chairman of the county
34 committee of each political party and in counties of the first
35 class the county board.

36 The county clerk shall print on the ballots for the territory
37 affected, in the personal choice column, the title of office and
38 leave a proper space under such title of office; and print the title

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 of office and the names of such persons as have been duly
2 nominated, in their proper columns.

3 (cf: P.L.1988, c.126, s.6)

4 2. (New section) Chapter 20 of Title 40 of the Revised
5 Statutes is supplemented as follows:

6 When any vacancy occurs on the board of chosen freeholders
7 otherwise than by expiration of term, it shall be filled by
8 election for the unexpired term only at the next general election
9 occurring not less than 60 days after the occurrence of the
10 vacancy, except that no such vacancy shall be filled at the
11 general election which immediately precedes the expiration of
12 the term in which the vacancy occurs. In the event a vacancy
13 eligible to be filled by election hereunder occurs on or before the
14 sixth day preceding the last day for filing petitions for
15 nomination for the primary election, such petitions may be
16 prepared and filed for nomination in that primary election in the
17 manner provided by article 3 of chapter 23 of Title 19 of the
18 Revised Statutes. In the event the vacancy occurs after that
19 sixth day preceding the last day for filing petitions for
20 nomination for the primary election, or if the vacancy occurs on
21 or before the sixth day preceding the last day for filing petitions
22 for nomination for the primary election but no such petition has
23 been filed with respect to a given political party, each political
24 party, or that party respectively, may select a candidate for the
25 office in question in the manner prescribed in subsections a. and
26 b. of R.S.19:13-20 for selecting candidates to fill vacancies
27 among candidates nominated at primary elections. A statement
28 of such selection under R.S.19:13-20 shall be filed with the
29 county clerk not later than the 48th day preceding the date of the
30 general election.

31 Besides the selection of candidates by each political party,
32 candidates may also be nominated by petition in a manner similar
33 to direct nomination by petition for the general election; but if
34 the candidate of any party to fill the vacancy will be chosen at a
35 primary election, such petition shall be filed with the county
36 clerk at least 55 days prior to the primary election; and if no
37 candidate of any party will be chosen at a primary election, such
38 petition shall be filed with the county clerk not later than 12
39 o'clock noon of the day on which the first selection meeting by
40 any party is held under this section to select a nominee to fill the
41 vacancy.

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

47 3. (New section) Chapter 20 of Title 40 of the Revised
48 Statutes is supplemented as follows:

49 In the case of a vacancy occurring with respect to a member of

1 the board of chosen freeholders who was elected as the candidate
2 of a political party which at the last preceding general election
3 held received the largest number of votes or the next largest
4 number of votes in the county for members of the board of
5 chosen freeholders, for the interim period pending the election
6 and qualification of a permanent successor to fill the vacancy, or
7 for the interim period constituting the remainder of the term in
8 the case of a vacancy occurring which cannot be filled pursuant
9 to section 1 of this act at a general election, the vacancy shall be
10 filled within 35 days by a member of the political party of which
11 the person who vacated the office was the candidate at the time
12 of his election thereto. The interim successor shall be selected
13 by the appropriate political party's county committee in the
14 same manner prescribed in subsections a. and b. of R.S.19:13-20
15 for selecting candidates to fill vacancies among candidates
16 nominated at primary elections, and a statement of the selection
17 of that successor shall be certified to and filed with the county
18 clerk in the same manner prescribed by subsection d. of that
19 section for certifying statements concerning the selection of such
20 candidates.

21 4. (New section) Chapter 20 of Title 40 of the Revised
22 Statutes is supplemented as follows:

23 Members of the political party's county committee who are
24 empowered to select a candidate for the vacated office shall only
25 nominate a candidate from the floor during the selection meeting
26 called under R.S.19:13-20 by the chairman or chairmen of the
27 committee and shall present written evidence of the nominee's
28 acceptance of the nomination.

29 5. (New section) P.L.1972, c.154 (C.40:41A-1 et seq.) is
30 supplemented as follows:

31 When any vacancy occurs on the board of chosen freeholders
32 otherwise than by expiration of term, it shall be filled by
33 election for the unexpired term only at the next general election
34 occurring not less than 60 days after the occurrence of the
35 vacancy, except that no such vacancy shall be filled at the
36 general election which immediately precedes the expiration of
37 the term in which the vacancy occurs. In the event a vacancy
38 eligible to be filled by election hereunder occurs on or before the
39 sixth day preceding the last day for filing petitions for
40 nomination for the primary election, such petitions may be
41 prepared and filed for nomination in that primary election in the
42 manner provided by article 3 of chapter 23 of Title 19 of the
43 Revised Statutes. In the event the vacancy occurs after that
44 sixth day preceding the last day for filing petitions for
45 nomination for the primary election, or if the vacancy occurs on
46 or before the sixth day preceding the last day for filing petitions
47 for nomination for the primary election but no such petition has
48 been filed with respect to a given political party, each political
49 party, or that party respectively, may select a candidate for the

1 office in question in the manner prescribed in subsections a. and
2 b. of R.S.19:13-20 for selecting candidates to fill vacancies
3 among candidates nominated at primary elections. A statement
4 of such selection under R.S.19:13-20 shall be filed with the
5 county clerk not later than the 48th day preceding the date of the
6 general election.

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

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 title
21 of office and the names of such persons as have been duly
22 nominated, in their proper columns.

23 6. (New section) P.L.1972, c.154 (C.40:41A-1 et seq.) is
24 supplemented as follows:

25 In the case of a vacancy occurring with respect to a member of
26 the board of chosen freeholders who was elected as the candidate
27 of a political party which at the last preceding general election
28 held received the largest number of votes or the next largest
29 number of votes in the county for members of the board of
30 chosen freeholders, for the interim period pending the election
31 and qualification of a permanent successor to fill the vacancy, or
32 for the interim period constituting the remainder of the term in
33 the case of a vacancy occurring which cannot be filled pursuant
34 to section 1 of this act at a general election, the vacancy shall be
35 filled within 35 days by a member of the political party of which
36 the person who vacated the office was the candidate at the time
37 of his election thereto. The interim successor shall be selected
38 by the appropriate political party's county committee in the
39 same manner prescribed in subsections a. and b. of R.S.19:13-20
40 for selecting candidates to fill vacancies among candidates
41 nominated at primary elections, and a statement of the selection
42 of that successor shall be certified to and filed with the county
43 clerk in the same manner prescribed by subsection d. of that
44 section for certifying statements concerning the selection of such
45 candidates.

46 7. (New section) P.L.1972, c.154 (C.40:41A-1 et seq.) is
47 supplemented as follows:

48 Members of the political party's county committee who are
49 empowered to select a candidate for the vacated office shall only

1 nominate a candidate from the floor during the selection meeting
2 called under R.S.19:13-20 by the chairman or chairmen of the
3 committee and shall present written evidence of the nominee's
4 acceptance of the nomination.

5 8. Sections 1 and 2 of P.L.1979, c.340 (C.40:20-35.10 and
6 C.40:20-35.11) and section 15 of P.L.1978, c.141 (C.40:41A-145)
7 are repealed.

8 9. This act shall take effect immediately.

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11 LOCAL GOVERNMENT

12

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14 Changes procedure for filling vacancies on boards of chosen
freeholders.

1 supplemented as follows:

2 Members of the political party's county committee who are
3 empowered to select a candidate for the vacated office shall only
4 nominate a candidate from the floor during the selection meeting
5 called under R.S.19:13-20 by the chairman or chairmen of the
6 committee and shall present written evidence of the nominee's
7 acceptance of the nomination.

8 8. Sections 1 and 2 of P.L.1979, c.340 (C.40:20-35.10 and
9 C.40:20-35.11) and section 15 of P.L.1978, c.141 (C.40:41A-145)
10 are repealed.

11 9. Section 12 of P.L.1988, c.126 is amended to read as follows:

12 12. This act shall take effect immediately but sections 2
13 through 11 shall remain inoperative until the adoption of
14 Assembly Concurrent Resolution No. 40 of 1988 (now pending
15 before the Legislature) or legislation having like effect.

16 (cf: P.L.1988, c.126, s.12 (eff. date))

17 10. This act shall take effect immediately.

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STATEMENT

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22 This bill revises the procedure for filling vacancies in the
23 membership of a board of chosen freeholders.

24 Under current law, a vacancy on a board of chosen freeholders
25 is filled temporarily by a majority vote of its remaining members,
26 until such time that a successor may be elected and qualified to
27 serve on the board.

28 Under this bill, elections to fill vacancies on a board of chosen
29 freeholders will be held only at general elections, namely, the
30 next general election occurring not less than 60 days after the
31 occurrence of the vacancy. However, no election to fill a
32 vacancy would be held at the general election which immediately
33 precedes the expiration of the term in which the vacancy occurs.
34 For the interim period pending the election of a successor to fill
35 the vacancy, or for the entire remainder of a term where the
36 vacancy is not to be filled by election, the vacancy will be filled
37 within 35 days of its occurrence at a selection meeting held by
38 the political party of which the person vacating the office was
39 the candidate at the time of his election. The meeting would be
40 held among the members of the county committee of that party.

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

1 successor to the vacating officeholder would be chosen in the
2 primary election.

3 The bill also repeals provisions of current law which would be
4 inconsistent with the provisions of the bill.

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LOCAL GOVERNMENT

8

9 Changes procedure for filling vacancies on boards of chosen
10 freeholders.

ASSEMBLY COUNTY GOVERNMENT COMMITTEE

STATEMENT TO

ASSEMBLY, No. 854

STATE OF NEW JERSEY

DATED: MARCH 15, 1990

The Assembly County Government Committee favorably reports Assembly Bill No. 854.

Assembly Bill No. 854 revises the procedure for filling vacancies in the membership of a board of chosen freeholders.

Under current law, a vacancy on a board of chosen freeholders is filled temporarily by a majority vote of its remaining members, until such time that a successor may be elected and qualified to serve on the board.

Under the provisions of this bill, elections to fill vacancies on a board of chosen freeholders will be held only at general elections, namely, the next general election occurring not less than 60 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 the members of the county committee of that party.

Assembly Bill No. 854 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.

Assembly Bill No. 854 also repeals provisions of current law which would be inconsistent with the provisions of the bill.

Assembly Bill No. 854 was pre-filed for introduction in the 1990 session pending technical review. As reported, the bill includes the changes required by technical review which has been performed.

MINORITY STATEMENT

Submitted by Assemblymen ROONEY and ARNONE

We cannot support this legislation, since it fails to include similar provisions for filling a vacancy in the office of the county

executive. Amendments of this nature were offered in committee but were not accepted.

We maintain that introducing party county committee procedures and mechanisms to select a member to the board of chosen freeholders when such an office is vacant is a fair process, since it mirrors procedures for legislative vacancies. While it may be an improvement over the current law, which could lead to an unfilled position should a board of chosen freeholders not take action within 30 days of the vacancy's occurrence, the bill, by excluding county executive vacancy procedures, does not go far enough.

The procedures for filling vacancies for county boards of freeholders and county executives should be uniform since both freeholders and county executives share powers in governing counties. The same protection that is afforded the selection of members of county boards of chosen freeholders in terms of insuring that the political party of the previous incumbent in office selects a replacement should also be at work in the selection of a county executive when such a position becomes vacant.

The bill as it stands now is analogous to allowing Legislative vacancies in one house of the legislature but not in the other house.