

40:41A-35

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2000 **CHAPTER:** 131
NJSA: 40:41A-35 (Filling County executive vacancies)
BILL NO: A1735 (Substituted for S44)

SPONSOR(S) : Lance

DATE INTRODUCED: Pre-filed

COMMITTEE: **ASSEMBLY:** State Government

SENATE: ----

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** June 15, 2000

SENATE: June 26, 2000

DATE OF APPROVAL: September 21, 2000

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (Assembly committee substitute enacted)
(Amendments during passage denoted by superscript numbers)

A1735

SPONSORS STATEMENT: (Begins on page 3 of original bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes

SENATE: No

FLOOR AMENDMENT STATEMENTS: No

LEGISLATIVE FISCAL ESTIMATE: No

S44

SPONSORS STATEMENT: (Begins on page 4 of original bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** No

SENATE: Yes

FLOOR AMENDMENT STATEMENTS: Yes

LEGISLATIVE FISCAL ESTIMATE: No

FINAL VERSION (first reprint) Yes

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

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ASSEMBLY, No. 1735

STATE OF NEW JERSEY
209th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2000 SESSION

Sponsored by:

Assemblyman LEONARD LANCE

District 23 (Warren, Hunterdon and Mercer)

SYNOPSIS

Revises method of filling vacancy in office of county executive.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



A1735 LANCE

2

1 AN ACT concerning vacancies in the office of the county executive and
2 amending P.L.1972, c.154.

3

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

6

7 1. Section 35 of P.L.1972, c.154 (C.40:41A-35) is amended to
8 read as follows:

9 35. The office of county executive shall be deemed vacant if the
10 incumbent moves his residence from the county or he is by death,
11 physical or mental illness or other casualty unable to continue to serve
12 as county executive. Any vacancy in the office of county executive
13 shall be filled in the manner prescribed by law for the election of
14 county officers at the next general election occurring not less than 60
15 days after the occurrence of the vacancy. [The board of freeholders
16 may appoint one of their number or the chief administrator to serve
17 as acting county executive until a successor has been elected.] The
18 county committee of the political party of which the incumbent was
19 the nominee shall, no later than 15 days after the occurrence of the
20 vacancy, present to the board of freeholders the names of three
21 nominees for the selection of a successor to fill the vacancy. The
22 board of freeholders shall, within 30 days after the occurrence of the
23 vacancy, appoint one of the nominees as the successor to fill the
24 vacancy. If the board of freeholders fails to appoint one of the
25 nominees within the time prescribed herein, the county committee that
26 named the three nominees shall, within the next 15 days, appoint one
27 of the nominees as the successor to fill the vacancy, and such person
28 shall be sworn in immediately. If the county committee which
29 nominated the incumbent fails to submit the names of the nominees
30 within the time prescribed herein, the board of freeholders shall, within
31 the next 15 days, fill the vacancy by the appointment of a successor
32 from the same political party which had nominated the incumbent
33 whose office has become vacant.

34 During the temporary absence or temporary disability of the county
35 executive the chief administrator shall serve as acting county
36 executive.

37 (cf: P.L.1972, c.154, s.35)

38

39 2. This act shall take effect immediately.

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

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STATEMENT

This bill revises the procedure for the filling of a vacancy in the office of the county executive. Under current law, the board of freeholders may appoint one of its members or the chief administrator of the county to serve as acting county executive until a successor has been elected.

This bill provides a mechanism similar to that utilized by municipalities for filling vacancies under the "Municipal Vacancy Law," P.L.1979, c.83 (C.40A:16-1 et seq.). In the case of a vacancy in the office of the county executive, the county committee of the political party of which the incumbent was the nominee must, no later than 15 days after the occurrence of the vacancy, present to the board of freeholders the names of three nominees for the selection of a successor to fill the vacancy. The board of freeholders must, within 30 days after the occurrence of the vacancy, appoint one of the nominees as the successor to fill the vacancy. If the board of freeholders fails to appoint one of the nominees within the 30-day time frame, the county committee must, within the next 15 days, appoint one of the nominees as the successor to fill the vacancy, and that person is to be sworn in immediately. If the county committee which nominated the incumbent fails to submit the names of the nominees within the 15-day time frame, the board of freeholders must, within the next 15 days, fill the vacancy by the appointment of a successor from the same political party which had nominated the incumbent whose office has become vacant.

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 1735

STATE OF NEW JERSEY
209th LEGISLATURE

ADOPTED JANUARY 24, 2000

Sponsored by:

Assemblyman LEONARD LANCE
District 23 (Warren, Hunterdon and Mercer)

Co-Sponsored by:

Senators Schluter and Bassano

SYNOPSIS

Changes method of filling county executive vacancies.

CURRENT VERSION OF TEXT

Substitute as adopted by the Assembly State Government Committee.



(Sponsorship Updated As Of: 6/27/2000)

1 AN ACT concerning the filling of vacancies in the position of county
2 executive, amending and supplementing P.L.1972, c.154
3 (C.40:41A-1 et seq.).

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. Section 35 of P.L.1972, c.154 (C.40:41A-35) is amended to
9 read as follows:

10 35. The office of county executive shall be deemed vacant if the
11 incumbent moves his residence from the county or he is by death,
12 physical or mental illness or other casualty unable to continue to serve
13 as county executive. Any vacancy in the office of county executive
14 shall be filled [in the manner prescribed by law for the election of
15 county officers at the next general election occurring not less than 60
16 days after the occurrence of the vacancy. The board of freeholders
17 may appoint one of their number or the chief administrator to serve
18 as acting county executive until a successor has been elected] by
19 election for the unexpired term only at the next general election
20 occurring not less than 51 days after the occurrence of the vacancy,
21 except that no such vacancy shall be filled at the general election
22 which immediately precedes the expiration of the term in which the
23 vacancy occurs.

24 In the event a vacancy eligible to be filled by election hereunder
25 occurs on or before the sixth day preceding the last day for filing
26 petitions for nomination for the primary election, such petitions may
27 be prepared and filed for nomination in that primary election in the
28 manner provided by article 3 of chapter 23 of Title 19 of the Revised
29 Statutes.

30 In the event the vacancy occurs after that sixth day preceding the
31 last day for filing petitions for nomination for the primary election, a
32 political party may select a candidate for the office in question in the
33 manner prescribed in subsections a. and b. of R.S.19:13-20 for
34 selecting candidates to fill vacancies among candidates nominated at
35 primary elections. A statement of such selection under R.S.19:13-20
36 shall be filed with the county clerk not later than the 48th day
37 preceding the date of the general election.

38 Besides the selection of candidates by each political party,
39 candidates may also be nominated by petition in a manner similar to
40 direct nomination by petition for the general election; but if the
41 candidate of any party to fill the vacancy will be chosen at a primary
42 election, such petition shall be filed with the county clerk at least 55
43 days prior to the primary election; and if no candidate of any party will

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Matter underlined thus is new matter.

1 be chosen at a primary election, such petition shall be filed with the
2 county clerk not later than 12 o'clock noon of the day on which the
3 first selection meeting by any party is held under this section to select
4 a nominee to fill the vacancy.

5 When the vacancy occurs, the county clerk of the county shall
6 forthwith give notice thereof to the chairman of the county committee
7 of each political party.

8 During the temporary absence or temporary disability of the
9 county executive the chief administrator shall serve as acting county
10 executive.

11 (cf: P.L.1972, c.154, s.35)

12
13 2. (New section) In the case of a vacancy occurring with respect
14 to a county executive who was elected as the candidate of a political
15 party which at the last preceding general election held received the
16 largest number of votes or the next largest number of votes in the
17 county for members of the board of chosen freeholders, for the interim
18 period pending the election and qualification of a permanent successor
19 to fill the vacancy, or for the interim period constituting the remainder
20 of the term in the case of a vacancy occurring which cannot be filled
21 pursuant to section 35 of P.L.1972, c.154 (C.40:41A-35) at a general
22 election, the vacancy shall be filled within 35 days by a member of the
23 political party of which the person who vacated the office was the
24 candidate at the time of the candidate's election thereto. The interim
25 successor shall be selected by the appropriate political party's county
26 committee in the same manner prescribed in subsections a. and b. of
27 R.S.19:13-20 for selecting candidates to fill vacancies among
28 candidates nominated at primary elections. Members of the political
29 party's county committee who are empowered to select a candidate for
30 the vacated office shall only nominate a candidate from the floor
31 during the selection meeting called under R.S.19:13-20 by the
32 chairman or chairmen of the committee and shall present written
33 evidence of the nominee's acceptance of the nomination. A statement
34 of the selection of that successor shall be certified to and filed with the
35 county clerk in the same manner prescribed by subsection d. of that
36 section for certifying statements concerning the selection of such
37 candidates.

38 The county clerk shall thereupon issue to the interim successor a
39 certificate of selection based upon that filed statement of selection, and
40 shall sign the clerk's name and affix the seal of the State thereto, and
41 shall without delay deliver that statement to the person so selected.

42
43 3. This act shall take effect immediately.

ASSEMBLY STATE GOVERNMENT COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR **ASSEMBLY, No. 1735**

STATE OF NEW JERSEY

DATED: JANUARY 24, 2000

The Assembly State Government Committee reports favorably an Assembly committee substitute for Assembly, No. 1735.

This committee substitute revises the procedure for the filling of a vacancy in the office of the county executive in the counties that operate under the "Optional County Charter Law," N.J.S.A.40:41A-1 et seq.

Under current law, any vacancy in the office of county executive in such counties will be filled in the manner prescribed by law for the election of county officers at the next general election occurring not less than 60 days after the occurrence of the vacancy. The law authorizes the board of freeholders to appoint one of their number to serve as acting county executive until a successor has been elected.

The committee substitute provides that any vacancy in the office of county executive will be filled by election for the unexpired term only at the next general occurring not less than 51 days after the occurrence of the vacancy, except that no such vacancy will be filled at the general election which immediately precedes the expiration of the term in which the vacancy occurs. If a vacancy to be filled by election occurs on or before the sixth day preceding the last day for filing petitions for nomination for the primary election, petitions may be prepared and filed for nomination in that primary election in the manner prescribed by N.J.S.A.19:23-5 et seq. If the vacancy occurs after that sixth day before the last day for filing petitions for nomination for the primary election, a political party may select a candidate for the office in question in the manner prescribed in N.J.S.A.19:13-20 for selecting candidates to fill vacancies among candidates nominated at primary elections. Candidates may also be nominated by petition in a manner similar to direct nomination by petition for the general election.

The committee substitute also provides that in the case of a vacancy occurring with respect to a county executive who was elected as the candidate of a political party which at the last preceding general election held received the largest number of votes or the next largest number of votes in the county for members of the board of chosen freeholders, for the interim period pending an election or the

expiration of the interim period constituting the remainder of a term, the vacancy will be filled within 35 days by a member of the political party of which the person who vacated the office was the candidate at the time of election. The interim successor will be selected by the appropriate political party's county committee in the same manner as prescribed for selecting candidates to fill vacancies among candidates nominated at primary elections.

P.L. 2000, CHAPTER 131, *approved September 21, 2000*

Assembly Committee Substitute for
Assembly, No. 1735

1 AN ACT concerning the filling of vacancies in the position of county
2 executive, amending and supplementing P.L.1972, c.154
3 (C.40:41A-1 et seq.).
4

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

8 1. Section 35 of P.L.1972, c.154 (C.40:41A-35) is amended to
9 read as follows:

10 35. The office of county executive shall be deemed vacant if the
11 incumbent moves his residence from the county or he is by death,
12 physical or mental illness or other casualty unable to continue to serve
13 as county executive. Any vacancy in the office of county executive
14 shall be filled [in the manner prescribed by law for the election of
15 county officers at the next general election occurring not less than 60
16 days after the occurrence of the vacancy. The board of freeholders
17 may appoint one of their number or the chief administrator to serve
18 as acting county executive until a successor has been elected] by
19 election for the unexpired term only at the next general election
20 occurring not less than 51 days after the occurrence of the vacancy,
21 except that no such vacancy shall be filled at the general election
22 which immediately precedes the expiration of the term in which the
23 vacancy occurs.

24 In the event a vacancy eligible to be filled by election hereunder
25 occurs on or before the sixth day preceding the last day for filing
26 petitions for nomination for the primary election, such petitions may
27 be prepared and filed for nomination in that primary election in the
28 manner provided by article 3 of chapter 23 of Title 19 of the Revised
29 Statutes.

30 In the event the vacancy occurs after that sixth day preceding the
31 last day for filing petitions for nomination for the primary election, a
32 political party may select a candidate for the office in question in the
33 manner prescribed in subsections a. and b. of R.S.19:13-20 for
34 selecting candidates to fill vacancies among candidates nominated at
35 primary elections. A statement of such selection under R.S.19:13-20
36 shall be filed with the county clerk not later than the 48th day
37 preceding the date of the general election.

38 Besides the selection of candidates by each political party,
39 candidates may also be nominated by petition in a manner similar to
40 direct nomination by petition for the general election; but if 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.

1 candidate of any party to fill the vacancy will be chosen at a primary
2 election, such petition shall be filed with the county clerk at least 55
3 days prior to the primary election; and if no candidate of any party will
4 be chosen at a primary election, such petition shall be filed with the
5 county clerk not later than 12 o'clock noon of the day on which the
6 first selection meeting by any party is held under this section to select
7 a nominee to fill the vacancy.

8 When the vacancy occurs, the county clerk of the county shall
9 forthwith give notice thereof to the chairman of the county committee
10 of each political party.

11 During the temporary absence or temporary disability of the
12 county executive the chief administrator shall serve as acting county
13 executive.

14 (cf: P.L.1972, c.154, s.35)

15

16 2. (New section) In the case of a vacancy occurring with respect
17 to a county executive who was elected as the candidate of a political
18 party which at the last preceding general election held received the
19 largest number of votes or the next largest number of votes in the
20 county for members of the board of chosen freeholders, for the interim
21 period pending the election and qualification of a permanent successor
22 to fill the vacancy, or for the interim period constituting the remainder
23 of the term in the case of a vacancy occurring which cannot be filled
24 pursuant to section 35 of P.L.1972, c.154 (C.40:41A-35) at a general
25 election, the vacancy shall be filled within 35 days by a member of the
26 political party of which the person who vacated the office was the
27 candidate at the time of the candidate's election thereto. The interim
28 successor shall be selected by the appropriate political party's county
29 committee in the same manner prescribed in subsections a. and b. of
30 R.S.19:13-20 for selecting candidates to fill vacancies among
31 candidates nominated at primary elections. Members of the political
32 party's county committee who are empowered to select a candidate for
33 the vacated office shall only nominate a candidate from the floor
34 during the selection meeting called under R.S.19:13-20 by the
35 chairman or chairmen of the committee and shall present written
36 evidence of the nominee's acceptance of the nomination. A statement
37 of the selection of that successor shall be certified to and filed with the
38 county clerk in the same manner prescribed by subsection d. of that
39 section for certifying statements concerning the selection of such
40 candidates.

41 The county clerk shall thereupon issue to the interim successor a
42 certificate of selection based upon that filed statement of selection, and
43 shall sign the clerk's name and affix the seal of the State thereto, and
44 shall without delay deliver that statement to the person so selected.

45

46 3. This act shall take effect immediately.

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- 3 Changes method of filling county executive vacancies.

CHAPTER 131

AN ACT concerning the filling of vacancies in the position of county executive, amending and supplementing P.L.1972, c.154 (C.40:41A-1 et seq.).

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

1. Section 35 of P.L.1972, c.154 (C.40:41A-35) is amended to read as follows:

C.40:41A-35 County executive, filling of vacancy in office; procedure.

35. The office of county executive shall be deemed vacant if the incumbent moves his residence from the county or he is by death, physical or mental illness or other casualty unable to continue to serve as county executive. Any vacancy in the office of county executive shall be filled by election for the unexpired term only at the next general election occurring not less than 51 days after the occurrence of the vacancy, except that no such vacancy shall be filled at the general election which immediately precedes the expiration of the term in which the vacancy occurs.

In the event a vacancy eligible to be filled by election hereunder occurs on or before the sixth day preceding the last day for filing petitions for nomination for the primary election, such petitions may be prepared and filed for nomination in that primary election in the manner provided by article 3 of chapter 23 of Title 19 of the Revised Statutes.

In the event the vacancy occurs after that sixth day preceding the last day for filing petitions for nomination for the primary election, a political party may select a candidate for the office in question in the manner prescribed in subsections a. and b. of R.S.19:13-20 for selecting candidates to fill vacancies among candidates nominated at primary elections. A statement of such selection under R.S.19:13-20 shall be filed with the county clerk not later than the 48th day preceding the date of the general election.

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

When the vacancy occurs, the county clerk of the county shall forthwith give notice thereof to the chairman of the county committee of each political party.

During the temporary absence or temporary disability of the county executive the chief administrator shall serve as acting county executive.

C.40:41A-35.1 Filling of vacancy, interim selection pending election of successor.

2. In the case of a vacancy occurring with respect to a county executive who was elected as the candidate of a political party which at the last preceding general election held received the largest number of votes or the next largest number of votes in the county for members of the board of chosen freeholders, for the interim period pending the election and qualification of a permanent successor to fill the vacancy, or for the interim period constituting the remainder of the term in the case of a vacancy occurring which cannot be filled pursuant to section 35 of P.L.1972, c.154 (C.40:41A-35) at a general election, the vacancy shall be filled within 35 days by a member of the political party of which the person who vacated the office was the candidate at the time of the candidate's election thereto. The interim successor shall be selected by the appropriate political party's county committee in the same manner prescribed in subsections a. and b. of R.S.19:13-20 for selecting candidates to fill vacancies among candidates nominated at primary elections. Members of the political party's county committee who are empowered to select a candidate for the vacated office shall only nominate a candidate from the floor during the selection meeting called under R.S.19:13-20 by the chairman or chairmen of the committee and shall present written evidence of the nominee's acceptance of the nomination. A statement of the selection of that successor shall be certified to and filed with the county clerk in the same manner prescribed by subsection d. of that section for certifying statements concerning the selection of such candidates.

The county clerk shall thereupon issue to the interim successor a certificate of selection based

upon that filed statement of selection, and shall sign the clerk's name and affix the seal of the State thereto, and shall without delay deliver that statement to the person so selected.

3. This act shall take effect immediately.

Approved September 21, 2000.