

19:13-20

LEGISLATIVE HISTORY CHECKLIST

NJSA 19:13-20 (Elections -- primaries -- Selection of persons to fill vacancies among candidates)

LAWS 1981 CHAPTER 346

Bill No. S1570

Sponsor(s) Perskie

Date Introduced November 10, 1980

Committee: Assembly State Gov't., Federal & Interstate Relations & Veterans Affairs

Senate State Gov't., Federal & Interstate Relations & Veterans Affairs

Amended during passage Yes No

Date of Passage: Assembly November 30, 1981

Senate February 2, 1981

Date of approval December 22, 1981

Following statements are attached if available:

Sponsor statement Yes No

Committee Statement: Assembly No

Senate Yes No

Fiscal Note No

Veto Message No

Message on signing No

Following were printed:

Reports No

Hearings No

6/22/81

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SENATE, No. 1570

STATE OF NEW JERSEY

INTRODUCED NOVEMBER 10, 1980

By Senator PERSKIE

Referred to Committee on State Government, Federal and
Interstate Relations and Veterans Affairs

AN ACT concerning vacancies among primary election nominees
and amending R. S. 19:13-20.

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

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

2 19:13-20. In the event of a vacancy, howsoever caused, among
3 candidates nominated at primaries, which vacancy shall occur not
4 later than 37 days before the general election, or in the event of
5 inability to select a candidate because of a tie vote at such primary,
6 a candidate shall be selected in the following manner:

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

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

14 (3) In the case of an office to be filled by the voters of a portion
15 of the State comprising all or part of two or more counties, the
16 candidate shall be selected by those members of the county commit-
17 tees of the party wherein the vacancy has occurred who represent
18 those portions of the respective counties which are comprised in the
19 district from which the candidate is to be elected.

20 (4) In the case of an office to be filled by the voters of a portion
21 of a single county, the candidate shall be selected by those members
22 of the county committee of the party wherein the vacancy has
23 occurred who represent those portions of the county which are com-
24 prised in the district from which the candidate is to be elected.

25 b. (1) Whenever in accordance with subsection a. of this section
26 members of two or more county committees are empowered to select

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

27 a candidate to fill a vacancy, it shall be the responsibility of the
28 chairmen of said county committees, acting jointly, to call together
29 the members of their respective committees who are so empowered.

30 (2) Whenever in accordance with the provisions of subsection a.
31 of this section members of a county committee are empowered to
32 select a candidate to fill a vacancy, it shall be the responsibility of
33 the chairman of such county committee to call together the members
34 of the committee who are so empowered.

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

39 c. Whenever a selection is to be made pursuant to this section to
40 fill a vacancy resulting from inability to select a candidate because
41 of a tie vote at a primary election, the selection shall be made from
42 among those who have thus received the same number of votes at
43 the primary.

44 d. A selection made pursuant to this section shall be made not
45 later than the thirty-fourth day preceding the date of the general
46 election, and a statement of such selection shall be filed with the
47 Secretary of State or the appropriate county clerk, as the case may
48 be, not later than said thirty-fourth day, and in the following
49 manner:

50 (1) A selection made by a State committee of political party shall
51 be certified to the Secretary of State by the State chairman of the
52 political party.

53 (2) A selection made by a county committee of a political party,
54 or a portion of the members thereof, shall be certified to the county
55 clerk of the county by the county chairman of such political party;
56 except that when such selection is of a candidate for the Senate or
57 General Assembly or the United States House of Representatives
58 the county chairman shall certify the selection to the State chairman
59 of such political party, who shall certify the same to the Secretary
60 of State.

61 (3) A selection made by members of two or more county commit-
62 tees of a political party acting jointly shall be certified by the chair-
63 men of said committees, acting jointly, to the State chairman of such
64 political party, who shall certify the same to the Secretary of State.

65 e. A statement filed pursuant to subsection d. of this section
66 shall state the residence and post office address of the person so
67 selected, and shall certify that the person so selected is qualified
68 under the laws of this State to be a candidate for such office, and is
69 a member of the political party filling the vacancy. Accompanying

70 the statement the person endorsed therein shall file a certificate
71 stating that he is qualified under the laws of this State to be a candi-
72 date for the office mentioned in the statement, that he consents to
73 stand as a candidate at the ensuing general election and that he is a
74 member of the political party named in said statement, and further
75 that he is not a member of, or identified with, any other political
76 party or any political organization espousing the cause of candi-
77 dates of any other political party, [that he has not voted in a
78 primary election of any other political party in the last two primary
79 elections, or contributed to the campaign funds of any other
80 political party within 1 year prior to the last primary election,]
81 to which shall be annexed the oath of allegiance prescribed in R. S.
82 41:1-1 duly taken and subscribed by him before an officer authorized
83 to take oaths in this State. The person so selected shall be the
84 candidate of the party for such office at the ensuing general election.

1 2. This act shall take effect immediately.

STATEMENT

R. S. 19:13-20 delineates the manner in which persons are to be selected to fill vacancies among candidates nominated in primary elections. R. S. 19:13-20 contains a provision requiring a person selected to fill such a vacancy to certify that he has not voted in a primary of any other political party in the last two primary elections and that he has not contributed to any other political party within 1 year prior to the last primary.

In *Nagler v. Stiles*, 343 F. Supp. 415 (1972), the United States District Court held New Jersey statutes requiring two successive primaries to elapse before a voter may change his party affiliation unconstitutional as being patently overboard in scope and as infringing on the right to vote and the right of association.

This bill, on the basis of the constitutional rationale enunciated in the *Nagler* decision, would eliminate the requirement that a person selected to fill a vacancy among primary nominees certify that he has not voted in a primary of any other political party in the last two primary elections and that he has not contributed to any other political party within 1 year prior to the primary election.

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51570(1980)

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

STATEMENT TO
SENATE, No. 1570

STATE OF NEW JERSEY

DATED: DECEMBER 11, 1980

The purpose of this bill is to amend Title 19 (R. S. 19:13-20) to remove language, concerning requirements for filling vacancies among candidates nominated at primaries, which is no longer applicable due to judicial and legislative action.

The language in question is that which requires a person selected to fill a vacancy among candidates nominated at primaries to certify that he has not voted in a primary of any other political party in the last two primary elections and that he has not contributed to any other political party prior to the last primary election.

As the sponsor's statement notes, a decision of the United States District Court (*Nagler v. Stiles*, 343 F. Supp. 415, 1972) held that New Jersey's statutes requiring two successive primaries to elapse before a voter may change his party affiliation were unconstitutional, overly broad and infringed on the right to vote and the right of association.

Further, chapter 97 of the Laws of 1977, approved May 20, 1977 (R. S. 19:23-45) established the requirement that a voter in a primary, unless he is a new voter or a voter who has not previously voted in a primary election, must be a member of the party "on the fiftieth day next preceding such primary election."

FROM THE OFFICE OF THE GOVERNOR

FOR IMMEDIATE RELEASE

FOR FURTHER INFORMATION

DECEMBER 22, 1981

KATHRYN FORSYTH

Governor Brendan Byrne today signed the following bills:

S-1570, sponsored by Senator Steven Perskie (D-Atlantic) which deletes an existing statutory requirement that a person selected by a party committee to fill a vacancy among primary electees on a general election ballot has not voted in the other party's primary for two years or contributed to the other party within one year.

A U.S. District Court case (Nagler v. Stiles, 343 F. Supp. 415 [1972]) held such requirements to be unconstitutional.

S-1614, sponsored by Senator Frank Dodd (D-Essex) which authorizes the Department of Environmental Protection to order the acquisition of a "small water company" by a suitable public or private entity. A small water company is defined as a private purveyor serving less than 1000 customers.

The bill is part of the Byrne Administration's water package. It would consolidate some of the tiniest of the more than 600 water companies in the state, some of which do not even serve an entire town.

DEP's authority could only be exercised after the failure of the small company to comply with an order concerning the availability and potability of the water supply and after a public hearing to determine the appropriate action to be taken and the costs of the acquisition by the most suitable public or private entity.

The bill sets down a procedure for determining compensation and requires the Board of Public Utilities to extend the franchise area of the acquiring company.

A-1009, sponsored by Assemblyman David Schwartz (D-Middlesex) which establishes a separate registration schedule for antique and exhibition aircraft.

- none -