

40A: 16-14 to 40A: 16-17

LEGISLATIVE HISTORY CHECKLIST

WJSA 40A:16-14 to 40A:16-17 (Municipal vacancies law--dates of Special elections)  
LAWS OF 1980 CHAPTER 93  
Bill No. S940  
Sponsor(s) Musto and others  
Date Introduced Jan. 29, 1980  
Committee: Assembly Municipal Government  
Senate County & Municipal Government  
Amended during passage Yes ☒ Amendments during passage denoted by asterisks  
Date of Passage: Assembly July 28, 1980  
Senate Feb. 25, 1980  
Date of approval Aug. 28, 1980

Following statements are attached if available:

Sponsor statement	Yes	<input checked="" type="checkbox"/> (Below)
Committee Statement: Assembly	<input checked="" type="checkbox"/>	No
Senate	Yes	<input checked="" type="checkbox"/>
Fiscal Note	<input checked="" type="checkbox"/>	No
Veto message	<input checked="" type="checkbox"/>	No
Message on signing	<input checked="" type="checkbox"/>	No

Following were printed.

Reports	<input checked="" type="checkbox"/>	No
Hearings	<input checked="" type="checkbox"/>	No

Sponsor's statement:

This bill would amend the "Municipal Vacancy Law" to provide municipalities with greater discretion when establishing the date for a special election to fill certain vacancies. In those instances when a municipality is required by P.L. 1979, c.83 to hold a special election 45 days after a vacancy has been determined, the bill would permit the municipality to hold such an election on the day before or the day after when the forty-fifth day is a Sunday or a holiday.

9/1/78  
EJ

93 8-28-80 80  
[OFFICIAL COPY REPRINT]

SENATE, No. 940

STATE OF NEW JERSEY

INTRODUCED JANUARY 29, 1980

By Senators MUSTO, SHEIL, RODGERS and FRIEDLAND

Referred to Committee on County and Municipal Government

AN ACT concerning special elections and amending sections 40A:16-14, 40A:16-15, 40A:16-16 and 40A:16-17 of the New Jersey Statutes.

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

1 1. N. J. S. 40A:16-14 is amended to read as follows:

2 40A:16-14. Special election to fill vacancy in the office of mayor;  
3 limitation on authority to appoint. If a governing body shall fail to  
4 fill a vacancy in the office of mayor as provided in N. J. S. 40A:16-4a  
5 or 40A:16-5a within the 30-day period prescribed by N. J. S.  
6 40A:16-11 or 40A:16-12, the municipal clerk shall forthwith fix  
7 the date for a special election to fill the vacancy to be held *\*not less*  
8 *than\* 45 days \*nor more than 50 days\** after the expiration of the  
9 time fixed for the filling of the vacancy\***;** *except that if the forty-*  
10 *fifth day following the expiration of the time fixed for the filling*  
11 *of the vacancy is a Sunday or a holiday, the municipal clerk shall fix*  
12 *the date for the special election on the preceding or following day***]\*.**

13 If the date fixed for a special election shall fall within 20 days prior  
14 to the holding of any general election, regular municipal election  
15 or any other election within the municipality, the vacancy shall be  
16 filled at that election. If the date fixed for a special election shall  
17 fall within 20 days after the holding of any general election, regular  
18 municipal election or any other election within the municipality,  
19 then the special election to fill the vacancy shall be held not less  
20 than 20 days nor more than 25 days from the date of that election.

21 Notwithstanding the foregoing, if a vacancy in the office of mayor  
22 occurs in the final 6 months of the term of the mayor, no special  
23 election shall be held to fill the vacancy.

24 No appointment shall be made by a governing body to fill a  
25 vacancy occurring in the office of a mayor after the fixing of a date  
26 for a special election to fill the vacancy pursuant to this section.

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

1     2. N. J. S. 40A:16-15 is amended to read as follows:

2     40A:16-15. Special election when person elected to office dies  
3 before commencement of term. If at any time after an election for  
4 the office of mayor or for a member of the governing body and  
5 before the time fixed for the commencement of the term of the  
6 office, the person elected to that office dies, the municipal clerk shall  
7 forthwith fix the date for a special election to fill that office for its  
8 term or unexpired term, as the case may be, to be held *\*not less*  
9 *than\* 45 days \*nor more than 50 days\** from the date of such  
10 death\***]; except that if the forty-fifth day from the date of such**  
11 *death is a Sunday or a holiday, the municipal clerk shall fix the date*  
12 *for the special election on the preceding or following day]\*.*

1     3. N. J. S. 40A:16-16 is amended to read as follows:

2     40A:16-16. Special election when vacancy occurs pursuant to  
3 R. S. 19:3-25. Whenever the office of mayor or of member of the  
4 governing body shall be declared or deemed vacant pursuant to  
5 R. S. 19:3-25, the municipal clerk shall forthwith fix the date for a  
6 special election to fill that office for its term or unexpired term, as  
7 the case may be, to be held *\*not less than\* 45 days \*nor more than*  
8 *50 days\** from the date upon which the office was so declared or  
9 deemed to be vacant\***]; except that if the forty-fifth day from the**  
10 *date the office has been declared or deemed vacant is a Sunday or*  
11 *a holiday, the municipal clerk shall fix the date for the special elec-*  
12 *tion on the preceding or following day]\*.*

1     4. N. J. S. 40A:16-17 is amended to read as follows:

2     40A:16-17. Special election when person elected to office be-  
3 comes disqualified before commencement of term. If at any time  
4 after an election for the office of mayor or for a member of the  
5 governing body and before the time fixed for the commencement  
6 of the term of the office, it shall be determined that the person  
7 elected to that office shall no longer have the qualifications required  
8 for the office, the municipal clerk shall forthwith fix the date for a  
9 special election to fill the office for its term or unexpired term, as  
10 the case may be, to be held *\*not less than\* 45 days \*nor more than*  
11 *50 days\** from the date of such determination\***]; except that if the**  
12 *forty-fifth day from such a determination is a Sunday or a holiday,*  
13 *the municipal clerk shall fix the date for the special election on the*  
14 *preceding or following day]\*.*

1     5. This act shall take effect immediately.

---

SENATE COUNTY AND MUNICIPAL  
GOVERNMENT COMMITTEE

STATEMENT TO

**SENATE, No. 940**

with Senate committee amendments

**STATE OF NEW JERSEY**

DATED: FEBRUARY 11, 1980

Senate Bill No. 940 would amend the "Municipal Vacancy Law" to provide municipalities with greater discretion when establishing the date for a special election to fill certain vacancies. As amended by the committee, the bill would permit the special election to be held on a date fixed by the municipal clerk not less than 45 days nor more than 50 days after the vacancy occurs. This amendment would effectuate the purposes of the sponsor, but would avoid the problem of the special election being required to be held on a Saturday when the 45th day falls on a Sunday and the next Monday is a holiday, which was presented by the bill as received by this committee.

---