



LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 1998

CHAPTER:147

NJSA:19:13-8

"Primaries -- various amendments"

BILL NO: S1227 (Substituted for A2228 Assembly Committee Substitute)

SPONSOR(S): Lynch and Kavanaugh

DATE INTRODUCED: June 15, 1998

COMMITTEE:

ASSEMBLY: ~~~~

SENATE: State Government

AMENDED DURING PASSAGE:Yes

DATE OF PASSAGE:

ASSEMBLY: December 17, 1998

SENATE: December 10, 1998

DATE OF APPROVAL: December 24, 1998

THE FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL: Senate Substitute (1st Reprint Enacted)

S1227

SPONSORS STATEMENT: *Yes*

[Original Bill](#) (Begins on page 4)

[Senate Substitute](#) (Begins on page 5)

COMMITTEE STATEMENT:

ASSEMBLY:*No*

SENATE:*Yes*

FLOOR AMENDMENT STATEMENTS: *Yes*

[June 29, 1998](#)

[October 22, 1998](#)

LEGISLATIVE FISCAL ESTIMATE: *No*

A2228

SPONSORS STATEMENT: *Yes* (Begins on page 4 of original bill)
(Bill and Sponsors Statement identical to S1227)

COMMITTEE STATEMENT:

ASSEMBLY: *Yes*

SENATE: *No*

FLOOR AMENDMENT STATEMENTS: *No*

LEGISLATIVE FISCAL ESTIMATE: *No*

VETO MESSAGE: *No*

GOVERNOR'S PRESS RELEASE ON SIGNING: *Yes*

THE FOLLOWING WERE PRINTED:

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REPORTS: *No*

HEARINGS: *No*

NEWSPAPER ARTICLES: *No*

[First Reprint]

SENATE SUBSTITUTE FOR
SENATE, No. 1227

STATE OF NEW JERSEY
208th LEGISLATURE

ADOPTED SEPTEMBER 28, 1998

Sponsored by:

Senator JOHN A. LYNCH

District 17 (Middlesex, Somerset and Union)

Senator WALTER J. KAVANAUGH

District 16 (Morris and Somerset)

Co-Sponsored by:

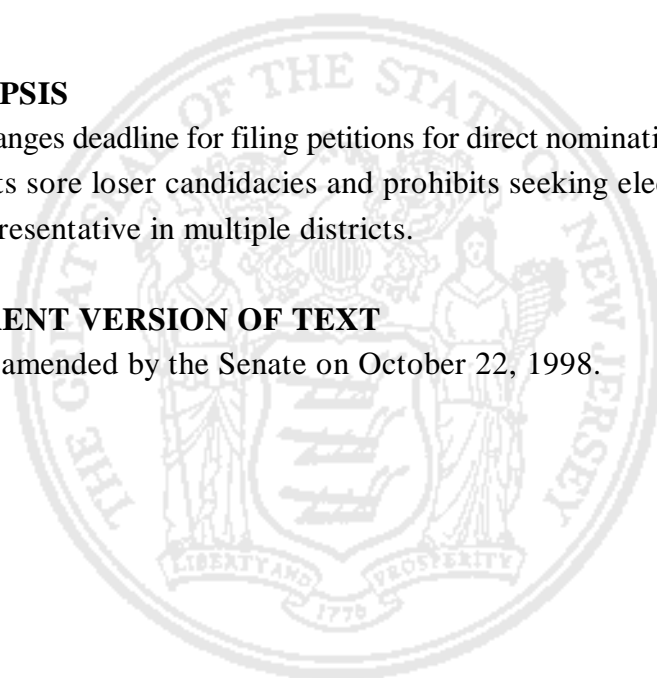
Assemblymen Gusciora and Carroll

SYNOPSIS

Changes deadline for filing petitions for direct nomination by petition; prevents sore loser candidacies and prohibits seeking election to House of Representative in multiple districts.

CURRENT VERSION OF TEXT

As amended by the Senate on October 22, 1998.



(Sponsorship Updated As Of: 12/18/1998)

1 AN ACT changing the deadline for filing certain petitions of
2 nomination and concerning certain candidates for elective public
3 office and amending and supplementing Title 19 of the Revised
4 Statutes.

5

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

8

9 1. R.S.19:13-8 is amended to read as follows:

10 19:13-8. A candidate nominated for an office in a petition shall
11 manifest his acceptance of such nomination by a written acceptance
12 thereof, signed by his hand, upon or annexed to such petition, to which
13 shall be annexed the oath of allegiance prescribed in section 41:1-1 of
14 the Revised Statutes duly taken and subscribed by him before an
15 officer authorized to take oaths in this State, or if the same person be
16 named for the same office in more than one petition, annexed to one
17 of such petitions. Such acceptance shall certify that the candidate is
18 a resident of and a legal voter in the jurisdiction of the office for which
19 the nomination is made. No candidate so named shall sign such
20 acceptance if he has signed an acceptance for the primary nomination
21 or any other petition of nomination under this chapter for such office.
22 In addition, no candidate named in a petition for the office of member
23 of the House of Representatives shall sign an acceptance if the
24 candidate has signed an acceptance for the primary nomination or any
25 other petition of nomination for the office of member of the House of
26 Representatives in another congressional district in the same calendar
27 year.

28 (cf: P.L.1949, c.24, s.2)

29

30 2. R.S.19:13-9 is amended to read as follows:

31 19:13-9. All such petitions and acceptances thereof shall be filed
32 with the officer or officers to whom they are addressed before 4:00
33 p.m. of the [54th day next preceding the] day of the holding of the
34 primary election for the general election in this Title provided. All
35 petitions when filed shall be open under proper regulations for public
36 inspection.

37 Notwithstanding the above provision, all petitions and acceptances
38 thereof nominating electors of candidates for President and Vice
39 President of the United States, which candidates have not been
40 nominated at a convention of a political party as defined by this Title,
41 shall be filed with the Secretary of State before 4:00 p.m. of the 99th

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:

¹ Senate floor amendments adopted October 22, 1998.

1 day preceding the general election in this Title provided. All petitions
2 when filed shall be opened under proper regulations for public
3 inspection.

4 The officer or officers shall transmit to the Election Law
5 Enforcement Commission the names of all candidates, other than
6 candidates for federal office, nominated by petition and any other
7 information required by the commission in the form and manner
8 prescribed by the commission and shall notify the commission
9 immediately upon the withdrawal of a petition of nomination.

10 (cf: P.L.1989, c.70, s.1)

11

12 3. R.S.19:13-11 is amended to read as follows:

13 19:13-11. The officer with whom the original petition was filed
14 shall in the first instance pass upon the validity of such objection in a
15 summary way unless an order shall be made in the matter by a court of
16 competent jurisdiction and for this purpose such officer shall have
17 power to subpoena witnesses and take testimony or depositions. He
18 shall file his determination in writing in his office on or before the
19 **[48th day before the primary election for the general election]** tenth
20 day after the last day for the filing of petitions, which determination
21 shall be open for public inspection.

22 In the case of petitions nominating electors of candidates for
23 President and Vice President of the United States, which candidates
24 have not been nominated at a convention of a political party as defined
25 by this Title, the Secretary of State shall file his or her determination
26 in writing in his or her office on or before the 93rd day before the
27 general election, which determination shall be open for public
28 inspection.

29 (cf: P.L.1989, c.70, s.2)

30

31 4. R.S.19:13-12 is amended to read as follows:

32 19:13-12. Any judge of the Superior Court, in the case of
33 candidates to be voted for by the electors of the entire State or of
34 more than one county thereof, and in all other cases a judge of the
35 Superior Court assigned to the county in which any petition of
36 nomination shall be filed, on the application or complaint, duly
37 verified, of any candidate, which application or complaint shall be
38 made ¹[at least] ¹ [50 days before the election] ¹ [twelve days] on
39 or before the twelfth day¹ after the last day for the filing of petitions,
40 setting forth any invasion or threatened invasion of his rights under the
41 petition of nomination filed with the Secretary of State or with any
42 county clerk, shall hear such application or complaint in a summary
43 way and make such order thereon as will protect and enforce the rights
44 of such candidates, which order or determination shall be filed within
45 three days after the filing of the application or complaint.

46 Notwithstanding the above provision, in the case of a nomination

1 petition or petitions for electors of candidates for President and Vice
2 President of the United States, which candidates have not been
3 nominated at a convention of a political party as defined by this Title,
4 any judge of the Superior Court, on the application or complaint, duly
5 verified, of any candidate, which application or complaint shall be
6 made at least 95 days before the general election, setting forth any
7 invasion or threatened invasion of his or her rights under the petition
8 of nomination filed with the Secretary of State, shall hear such
9 application or complaint in a summary way and make such order
10 thereon as will protect and enforce the rights of such candidates,
11 which order or determination shall be filed within three days after the
12 filing of the application or complaint.

13 (cf: P.L.1989, c.70, s.3)

14

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

16 19:13-13. A candidate whose petition of nomination, or any
17 affidavit or affidavits thereto, is defective may cause such petition, or
18 the affidavit or affidavits thereto, to be amended in matters of
19 substance or of form as may be necessary, but not to add signatures,
20 or such amendment or amendments may be made by filing a new or
21 substitute petition, or affidavit or affidavits, and the same when so
22 amended shall be of the same effect as if originally filed in such
23 amended form; but every amendment shall be made on or before the
24 **【48th day before the primary election for the general election】** tenth
25 day after the last day for the filing of petitions. This provision shall be
26 liberally construed to protect the interest of candidates.

27 Notwithstanding the above provision, in the case of nomination
28 petitions for electors for candidates for President and Vice President
29 of the United States, which candidates have not been nominated at a
30 convention of a political party as defined by this Title, every statutorily
31 authorized amendment shall be made on or before the 93rd day before
32 the general election.

33 (cf: P.L.1989, c.70, s.4)

34

35 6. R.S.19:23-15 is amended to read as follows:

36 19:23-15. Accompanying the petition and attached thereto each
37 person indorsed therein shall file a certificate, stating that he is
38 qualified for the office mentioned in the petition; that he consents to
39 stand as a candidate for nomination at the ensuing primary election,
40 and that if nominated, he agrees to accept the nomination. Such
41 acceptance shall certify that the candidate is a resident of and a legal
42 voter in the jurisdiction of the office for which the nomination is to be
43 made and there shall be annexed thereto the oath of allegiance
44 prescribed in section 41:1-1 of the Revised Statutes duly taken and
45 subscribed by the person so nominated before an officer authorized to
46 take oaths in this State.

1 No candidate who has accepted the nomination by a direct petition
2 of nomination for the general election shall sign an acceptance to a
3 petition of nomination for such office for the primary election. In
4 addition, no candidate named in a petition for the office of member of
5 the House of Representatives shall sign an acceptance if the candidate
6 has signed an acceptance for the primary nomination or any other
7 petition of nomination for the office of member of the House of
8 Representatives in another congressional district in the same calendar
9 year.

10 (cf: P.L.1949, c.24, s.10)

11

12 7. (New section) No petition for direct nomination, including a
13 petition filed pursuant to R.S.19:13-19, which, for any reason, is filed
14 after the deadline established in R.S.19:13-9 shall nominate to any
15 elective public office a candidate who unsuccessfully sought the
16 nomination of a political party to that office in the primary election
17 held in the same calendar year and no unsuccessful primary candidate
18 shall sign an acceptance of such a petition for direct nomination.

19

20 8. This act shall take effect January 1 following the date of
21 enactment.

SENATE, No. 1227

STATE OF NEW JERSEY
208th LEGISLATURE

INTRODUCED JUNE 15, 1998

Sponsored by:

Senator JOHN A. LYNCH

District 17 (Middlesex, Somerset and Union)

Senator WALTER J. KAVANAUGH

District 16 (Morris and Somerset)

SYNOPSIS

Changes deadline for filing petitions for direct nomination by petition; prohibits primary election loser from running as independent in following general election; prohibits independent candidacy under certain circumstances.

CURRENT VERSION OF TEXT

As introduced.



S1227 LYNCH, KAVANAUGH

2

1 AN ACT changing the eligibility and deadline for filing certain petitions
2 of nomination and amending R.S.19:13-4, R.S.19:13-8 and
3 R.S.19:13-9.

4

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

7

8 1. R.S.19:13-4 is amended to read as follows:

9 19:13-4. Such petition shall set forth the names, places of residence
10 and post-office addresses of the candidates for the offices to be filled,
11 the title of the office for which each candidate is named, that the
12 petitioners are legally qualified to vote for such candidates and pledge
13 themselves to support and vote for the persons named in such petition
14 and that they have not signed any other petition of nomination for the
15 primary or for the general election for such office.

16 In the case of a petition or petitions nominating electors of
17 president and vice president of the United States, the names of the
18 candidates for president and vice president for whom such electors are
19 to vote may be included in the petition or petitions, but the petition or
20 petitions shall not include the names of any candidates for president or
21 vice president who have been nominated at a convention of a political
22 party, as defined by this title.

23 The petition shall also state in not more than three words the
24 designation of the party or principles which the candidates therein
25 named represent, but such designation shall not contain the designation
26 name, derivative, or any part thereof as a noun or an adjective of any
27 political party entitled to participate in the primary election.

28 The petition shall also include the request that the names of the
29 candidates and their designations of party or principles be printed upon
30 the ballots to be used at the ensuing general election.

31 No such petition shall undertake to nominate any candidate who
32 has: (1) **[has]** accepted the nomination for the primary for such
33 position; (2) voted in the immediately preceding primary election for
34 the general election; (3) been a member of a political party at any time
35 after the immediately preceding primary election for the general
36 election; or (4) unsuccessfully sought the nomination of a political
37 party to such position in the primary election.

38 Each petition shall be arranged to contain double spacing between
39 the signature lines of the petition, so that each signer thereof is
40 afforded sufficient space to provide his or her printed name, address
41 and signature.

42 Any form of a petition of nomination, other than petitions for
43 federal office, which is provided to candidates by the Secretary of

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Matter underlined thus is new matter.

1 State, the county clerk, or the municipal clerk shall contain the
2 following notice: "Notice: All candidates are required by law to
3 comply with the provisions of the 'New Jersey Campaign Contributions
4 and Expenditures Reporting Act.' For further information, please call
5 (insert phone number of the Election Law Enforcement Commission)."
6 (cf: P.L.1994, c.77, s.5)

7

8 2. R.S.19:13-8 is amended to read as follows:

9 19:13-8. A candidate nominated for an office in a petition shall
10 manifest his acceptance of such nomination by a written acceptance
11 thereof, signed by his hand, upon or annexed to such petition, to which
12 shall be annexed the oath of allegiance prescribed in section 41:1-1 of
13 the Revised Statutes duly taken and subscribed by him before an
14 officer authorized to take oaths in this State, or if the same person be
15 named for the same office in more than one petition, annexed to one
16 of such petitions. Such acceptance shall certify that the candidate is
17 a resident of and a legal voter in the jurisdiction of the office for which
18 the nomination is made. No candidate so named shall sign such
19 acceptance if he has: (1) signed an acceptance for the primary
20 nomination or any other petition of nomination under this chapter for
21 such office; (2) voted in the immediately preceding primary election to
22 the general election; (3) been a member of a political party at any time
23 after the immediately preceding primary election for the general
24 election; or (4) unsuccessfully sought the nomination of a political
25 party to such position in the primary election.

26 (cf: P.L.1949, c.24, s.2)

27

28 3. R.S.19:13-9 is amended to read as follows:

29 19:13-9. All such petitions and acceptances thereof shall be filed
30 with the officer or officers to whom they are addressed before 4:00
31 p.m. of the [54th day next preceding the] day of the holding of the
32 primary election for the general election in this Title provided. All
33 petitions when filed shall be open under proper regulations for public
34 inspection.

35 Notwithstanding the above provision, all petitions and acceptances
36 thereof nominating electors of candidates for President and Vice
37 President of the United States, which candidates have not been
38 nominated at a convention of a political party as defined by this Title,
39 shall be filed with the Secretary of State before 4:00 p.m. of the 99th
40 day preceding the general election in this Title provided. All petitions
41 when filed shall be opened under proper regulations for public
42 inspection.

43 The officer or officers shall transmit to the Election Law
44 Enforcement Commission the names of all candidates, other than
45 candidates for federal office, nominated by petition and any other
46 information required by the commission in the form and manner

1 prescribed by the commission and shall notify the commission
2 immediately upon the withdrawal of a petition of nomination.
3 (cf: P.L.1989, c.70, s.1)

4

5 4. This act shall take effect January 1 following the date of
6 enactment.

7

8

9

STATEMENT

10

11 This bill changes, from the 54th day prior to the day of the
12 primary election to the day of the primary election, the deadline for the
13 filing of petitions for the direct nomination by petition of candidates
14 for public office.

15 The bill at the same time prohibits a person from either filing
16 petitions of nomination or signing an acceptance of nomination to run
17 as an independent candidate if that person voted in the immediately
18 preceding primary election to the general election or was a member of
19 a political party at any time after the immediately preceding primary
20 election for the general election.

21 The bill also prohibits a person who unsuccessfully sought the
22 nomination of a political party in a primary election from either filing
23 petitions of nomination or signing an acceptance of nomination to run
24 as an independent candidate for that office in the following general
25 election.

26 The change of the filing deadline is the result of the U.S. Court of
27 Appeals' recent decision in Council of Alternative Political Parties v.
28 Hooks, 121 F. 3rd 876 (3rd Cir. 1997), in which the court found that
29 requiring nominating petitions to be filed nearly seven months prior to
30 the general election burdened the plaintiffs' associational rights by
31 depriving alternative parties and their supporters the ability to react to
32 events occurring after the deadline. The deadline also required
33 candidates to collect signatures when the election was remote and
34 voters generally uninterested. In addition, because the early deadline
35 made it more difficult to place candidates on the ballot, the court
36 found that it hindered the ability of alternative political parties to
37 achieve major party status.

38 Requiring independent candidates to file on the day of the primary,
39 instead of 54 days prior thereto, protects those candidate's
40 associational rights while allowing the state to maintain its recognized
41 and compelling interest in protecting the integrity of the various routes
42 to the ballot. Changing the date would allow alternative political
43 parties the opportunity to recruit and nominate candidates over a
44 longer period, react to events for almost two additional months and
45 propose alternatives if disaffection with the potential nominees of the
46 major parties emerges. It would also allow them to gather signatures

1 at a time when the election is generating increased interest, thus
2 strengthening their chances of getting on the ballot and achieving
3 major party status. Finally, it would simultaneously identify all
4 candidates for a particular office, both party-affiliated and
5 independent, placing them on an equal footing before the electorate.

6 Selecting the day of the primary election would also limit the ability
7 of a person who unsuccessfully sought office as a candidate in that
8 primary election from running for that office as an independent in the
9 following general election and protecting the parties from "intraparty
10 feuding." The constitutionality of prohibiting a defeated primary
11 candidate from running as an independent has been affirmed by the
12 United States Supreme Court in Storer v. Brown, 94 S.Ct. 1274
13 (1974), since this type of "sore-loser" provision furthers a state's
14 interest in stabilizing its political system by guarding against splintered
15 parties and unrestrained factionalism and in protecting the routes to
16 the ballot.

17 Finally, prohibiting a person from running as an independent if that
18 person voted in the immediately preceding primary election or was a
19 member of a political party at any time after the immediately preceding
20 primary election would broaden the current filing prohibitions to
21 preclude independent candidacies by persons formerly affiliated with
22 a political party for the year preceding the primary election. The
23 constitutionality of this provision, known popularly as a "disaffiliation
24 provision," was also upheld by the United States Supreme Court in
25 Storer. The court found that the one-year disaffiliation provision of
26 a California law furthered that state's interest in the stability of its
27 political system and that interest was not only permissible but
28 compelling and outweighed the interest the candidate and his
29 supporters may have in making a late, rather than an early, decision to
30 seek independent ballot status.

SENATE SUBSTITUTE FOR
SENATE, No. 1227

STATE OF NEW JERSEY
208th LEGISLATURE

ADOPTED SEPTEMBER 28, 1998

Sponsored by:

Senator JOHN A. LYNCH

District 17 (Middlesex, Somerset and Union)

Senator WALTER J. KAVANAUGH

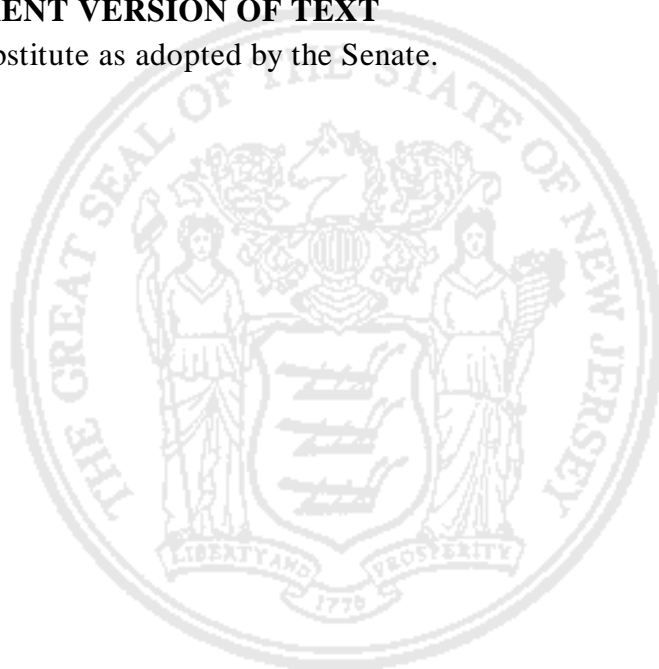
District 16 (Morris and Somerset)

SYNOPSIS

Changes deadline for filing petitions for direct nomination by petition; prevents sore loser candidacies and prohibits seeking election to House of Representative in multiple districts.

CURRENT VERSION OF TEXT

Substitute as adopted by the Senate.



1 AN ACT changing the deadline for filing certain petitions of
2 nomination and concerning certain candidates for elective public
3 office and amending and supplementing Title 19 of the Revised
4 Statutes.

5

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

8

9 1. R.S.19:13-8 is amended to read as follows:

10 19:13-8. A candidate nominated for an office in a petition shall
11 manifest his acceptance of such nomination by a written acceptance
12 thereof, signed by his hand, upon or annexed to such petition, to which
13 shall be annexed the oath of allegiance prescribed in section 41:1-1 of
14 the Revised Statutes duly taken and subscribed by him before an
15 officer authorized to take oaths in this State, or if the same person be
16 named for the same office in more than one petition, annexed to one
17 of such petitions. Such acceptance shall certify that the candidate is
18 a resident of and a legal voter in the jurisdiction of the office for which
19 the nomination is made. No candidate so named shall sign such
20 acceptance if he has signed an acceptance for the primary nomination
21 or any other petition of nomination under this chapter for such office.
22 In addition, no candidate named in a petition for the office of member
23 of the House of Representatives shall sign an acceptance if the
24 candidate has signed an acceptance for the primary nomination or any
25 other petition of nomination for the office of member of the House of
26 Representatives in another congressional district in the same calendar
27 year.

28 (cf: P.L.1949, c.24, s.2)

29

30 2. R.S.19:13-9 is amended to read as follows:

31 19:13-9. All such petitions and acceptances thereof shall be filed
32 with the officer or officers to whom they are addressed before 4:00
33 p.m. of the **[54th day next preceding the]** day of the holding of the
34 primary election for the general election in this Title provided. All
35 petitions when filed shall be open under proper regulations for public
36 inspection.

37 Notwithstanding the above provision, all petitions and acceptances
38 thereof nominating electors of candidates for President and Vice
39 President of the United States, which candidates have not been
40 nominated at a convention of a political party as defined by this Title,
41 shall be filed with the Secretary of State before 4:00 p.m. of the 99th
42 day preceding the general election in this Title provided. All petitions
43 when filed shall be opened under proper regulations for public

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 inspection.

2 The officer or officers shall transmit to the Election Law
3 Enforcement Commission the names of all candidates, other than
4 candidates for federal office, nominated by petition and any other
5 information required by the commission in the form and manner
6 prescribed by the commission and shall notify the commission
7 immediately upon the withdrawal of a petition of nomination.

8 (cf: P.L.1989, c.70, s.1)

9

10 3. R.S.19:13-11 is amended to read as follows:

11 19:13-11. The officer with whom the original petition was filed
12 shall in the first instance pass upon the validity of such objection in a
13 summary way unless an order shall be made in the matter by a court of
14 competent jurisdiction and for this purpose such officer shall have
15 power to subpoena witnesses and take testimony or depositions. He
16 shall file his determination in writing in his office on or before the
17 **【48th day before the primary election for the general election】** tenth
18 day after the last day for the filing of petitions, which determination
19 shall be open for public inspection.

20 In the case of petitions nominating electors of candidates for
21 President and Vice President of the United States, which candidates
22 have not been nominated at a convention of a political party as defined
23 by this Title, the Secretary of State shall file his or her determination
24 in writing in his or her office on or before the 93rd day before the
25 general election, which determination shall be open for public
26 inspection.

27 (cf: P.L.1989, c.70, s.2)

28

29 4. R.S.19:13-12 is amended to read as follows:

30 19:13-12. Any judge of the Superior Court, in the case of
31 candidates to be voted for by the electors of the entire State or of
32 more than one county thereof, and in all other cases a judge of the
33 Superior Court assigned to the county in which any petition of
34 nomination shall be filed, on the application or complaint, duly
35 verified, of any candidate, which application or complaint shall be
36 made at least **【50 days before the election】** twelve days after the last
37 day for the filing of petitions, setting forth any invasion or threatened
38 invasion of his rights under the petition of nomination filed with the
39 Secretary of State or with any county clerk, shall hear such application
40 or complaint in a summary way and make such order thereon as will
41 protect and enforce the rights of such candidates, which order or
42 determination shall be filed within three days after the filing of the
43 application or complaint.

44 Notwithstanding the above provision, in the case of a nomination
45 petition or petitions for electors of candidates for President and Vice
46 President of the United States, which candidates have not been

1 nominated at a convention of a political party as defined by this Title,
2 any judge of the Superior Court, on the application or complaint, duly
3 verified, of any candidate, which application or complaint shall be
4 made at least 95 days before the general election, setting forth any
5 invasion or threatened invasion of his or her rights under the petition
6 of nomination filed with the Secretary of State, shall hear such
7 application or complaint in a summary way and make such order
8 thereon as will protect and enforce the rights of such candidates,
9 which order or determination shall be filed within three days after the
10 filing of the application or complaint.

11 (cf: P.L.1989, c.70, s.3)

12

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

14 19:13-13. A candidate whose petition of nomination, or any
15 affidavit or affidavits thereto, is defective may cause such petition, or
16 the affidavit or affidavits thereto, to be amended in matters of
17 substance or of form as may be necessary, but not to add signatures,
18 or such amendment or amendments may be made by filing a new or
19 substitute petition, or affidavit or affidavits, and the same when so
20 amended shall be of the same effect as if originally filed in such
21 amended form; but every amendment shall be made on or before the
22 **[48th day before the primary election for the general election]** tenth
23 day after the last day for the filing of petitions. This provision shall be
24 liberally construed to protect the interest of candidates.

25 Notwithstanding the above provision, in the case of nomination
26 petitions for electors for candidates for President and Vice President
27 of the United States, which candidates have not been nominated at a
28 convention of a political party as defined by this Title, every statutorily
29 authorized amendment shall be made on or before the 93rd day before
30 the general election.

31 (cf: P.L.1989, c.70, s.4)

32

33 6. R.S.19:23-15 is amended to read as follows:

34 19:23-15. Accompanying the petition and attached thereto each
35 person indorsed therein shall file a certificate, stating that he is
36 qualified for the office mentioned in the petition; that he consents to
37 stand as a candidate for nomination at the ensuing primary election,
38 and that if nominated, he agrees to accept the nomination. Such
39 acceptance shall certify that the candidate is a resident of and a legal
40 voter in the jurisdiction of the office for which the nomination is to be
41 made and there shall be annexed thereto the oath of allegiance
42 prescribed in section 41:1-1 of the Revised Statutes duly taken and
43 subscribed by the person so nominated before an officer authorized to
44 take oaths in this State.

45 No candidate who has accepted the nomination by a direct petition
46 of nomination for the general election shall sign an acceptance to a

1 petition of nomination for such office for the primary election. In
2 addition, no candidate named in a petition for the office of member of
3 the House of Representatives shall sign an acceptance if the candidate
4 has signed an acceptance for the primary nomination or any other
5 petition of nomination for the office of member of the House of
6 Representatives in another congressional district in the same calendar
7 year.

8 (cf: P.L.1949, c.24, s.10)

9
10 7. (New section) No petition for direct nomination, including a
11 petition filed pursuant to R.S.19:13-19, which, for any reason, is filed
12 after the deadline established in R.S.19:13-9 shall nominate to any
13 elective public office a candidate who unsuccessfully sought the
14 nomination of a political party to that office in the primary election
15 held in the same calendar year and no unsuccessful primary candidate
16 shall sign an acceptance of such a petition for direct nomination.

17
18 8. This act shall take effect January 1 following the date of
19 enactment.

20
21 STATEMENT

22
23 This Senate Substitute:

24 1) establishes the primary election day (rather than 54 days before
25 the primary) as the deadline for filing direct nomination petitions for
26 public office;

27 2) prevents an unsuccessful primary candidate from seeking the
28 same office through direct nomination by petition if, for any reason,
29 direct nomination petitions are filed after primary election day; and

30 3) prohibits a candidate for the office of member of the House of
31 Representatives from seeking that office in more than one
32 congressional district in the same year.

33 The change of the filing deadline is in response to the U.S. Court
34 of Appeals' recent decision in Council of Alternative Political Parties
35 v. Hooks, 121 F. 3rd 876 (3rd Cir. 1997), in which the court found
36 that requiring nominating petitions to be filed nearly seven months
37 prior to the general election burdened the plaintiffs' associational rights
38 by depriving alternative parties and their supporters of the ability to
39 react to events occurring after the deadline. The deadline also
40 required candidates to collect signatures when the election was remote
41 and voters generally uninterested. In addition, because the early
42 deadline made it more difficult to place candidates on the ballot, the
43 court found that it hindered the ability of alternative political parties
44 to achieve major party status.

45 Requiring independent candidates to file on the day of the primary,
46 instead of 54 days prior thereto, protects those candidate's

1 associational rights while allowing the State to maintain its recognized
2 and compelling interest in protecting the integrity of the various routes
3 to the ballot. Changing the date would allow alternative political
4 parties the opportunity to recruit and nominate candidates over a
5 longer period, react to events for almost two additional months and
6 propose alternatives if disaffection with the potential nominees of the
7 major parties emerges. It would also allow them to gather signatures
8 at a time when the election is generating increased interest, thus
9 strengthening their chances of getting on the ballot and achieving
10 major party status. Finally, it would simultaneously identify all
11 candidates for a particular office, both party-affiliated and
12 independent, placing them on an equal footing before the electorate.

13 Selecting the day of the primary election as the day for filing
14 petitions by independent candidates would also limit the ability of a
15 person who unsuccessfully sought office as a candidate in that primary
16 election from running for that office as an independent in the following
17 general election, thus protecting the parties from "intraparty feuding."
18 The constitutionality of prohibiting a defeated primary candidate from
19 running as an independent has been affirmed by the United States
20 Supreme Court in Storer v. Brown, 94 S.Ct. 1274 (1974), since this
21 type of "sore-loser" provision furthers a state's interest in stabilizing
22 its political system by guarding against splintered parties and
23 unrestrained factionalism and in protecting the routes to the ballot.

24 In addition, the Senate Substitute also provides that no petition for
25 direct nomination, including a petition filed pursuant to R.S.19:13-19,
26 which, for any reason, is filed after the deadline established in
27 R.S.19:13-9 shall nominate to any elective public office a candidate
28 who unsuccessfully sought the nomination of a political party to that
29 office in the primary election held in the same calendar year. An
30 unsuccessful primary candidate is similarly prohibited from signing an
31 acceptance of such a petition for direct nomination.

32 Finally, the current law prohibits a candidate from accepting direct
33 nomination by petition for a public office if the candidate has signed
34 an acceptance for the primary nomination or any other petition of
35 nomination "for such office." In a recent decision, the Superior Court,
36 Law Division, held that this provision did not prevent an unsuccessful
37 primary candidate for the office of member of the House of
38 Representatives from seeking direct nomination by petition for that
39 office in a different congressional district. Verniero v. Mayer,
40 Superior Court, Law Division (Mercer County), Docket No. 2801-98
41 (decided August 19, 1998).

42 Unfortunately, the court's interpretation of the statute allows
43 certain candidates to, in effect, run twice for the same office in the
44 same year. Changing the filing deadline for direct nomination petitions
45 to the day of the primary elections should address this situation.
46 Nevertheless, in order to ensure that no individual will launch dual

1 congressional candidacies, the Senate Substitute prohibits a candidate
2 for the office of member of the House of Representatives from
3 accepting direct nomination by petition or nomination for the primary
4 if the candidate has accepted either form of nomination in another
5 congressional district in the same year.

SENATE STATE GOVERNMENT, BANKING AND FINANCIAL
INSTITUTIONS COMMITTEE

STATEMENT TO

SENATE, No. 1227

STATE OF NEW JERSEY

DATED: JUNE 25, 1998

The Senate State Government, Banking and Financial Institutions Committee reports favorably Senate Bill No. 1227.

This bill changes the deadline for filing petitions for direct nomination by petition; prohibits a primary election loser from running as an independent candidate in the following general election; and prohibits an independent candidacy under certain circumstances.

Specifically, the bill:

(1) changes, from the 54th day prior to the day of the primary election to the day of the primary election, the deadline for the filing of petitions for the direct nomination by petition of candidates for public office;

(2) prohibits a person from either filing petitions of nomination or signing an acceptance of nomination to run as an independent candidate if that person voted in the immediately preceding primary election to the general election or was a member of a political party at any time after the immediately preceding primary election for the general election; and

(3) prohibits a person who unsuccessfully sought the nomination of a political party in a primary election from either filing a petition of nomination or signing an acceptance of nomination to run as an independent candidate for that office in the following general election.

The change of the filing deadline is the result of the U.S. Court of Appeals' recent decision in Council of Alternative Political Parties v. Hooks, 121 F.3d 876 (3rd Cir. 1997), in which the court found that requiring nominating petitions to be filed nearly seven months prior to the general election burdened the plaintiffs' associational rights by depriving alternative parties and their supporters of the ability to react to events occurring after the deadline. The deadline also required candidates to collect signatures when the election was remote and voters generally uninterested. In addition, because the early deadline made it more difficult to place candidates on the ballot, the court found that it hindered the ability of alternative political parties to achieve major party status.

Requiring independent candidates to file on the day of the primary,

instead of 54 days prior thereto, protects those candidate's associational rights while allowing the State to maintain its recognized and compelling interest in protecting the integrity of the various routes to the ballot. Changing the date would allow alternative political parties the opportunity to recruit and nominate candidates over a longer period, react to events for almost two additional months and propose alternatives if disaffection with the potential nominees of the major parties emerges. It would also allow them to gather signatures at a time when the election is generating increased interest, thus strengthening their chances of getting on the ballot and achieving major party status. Finally, it would simultaneously identify all candidates for a particular office, both party-affiliated and independent, placing them on an equal footing before the electorate.

Selecting the day of the primary election as the day for filing petitions by independent candidates would also limit the ability of a person who unsuccessfully sought office as a candidate in that primary election from running for that office as an independent in the following general election and protecting the parties from "intraparty feuding." The constitutionality of prohibiting a defeated primary candidate from running as an independent has been affirmed by the United States Supreme Court in Storer v. Brown, 94 S.Ct. 1274 (1974), since this type of "sore-loser" provision furthers a state's interest in stabilizing its political system by guarding against splintered parties and unrestrained factionalism and in protecting the routes to the ballot.

Finally, prohibiting a person from running as an independent if that person voted in the immediately preceding primary election or was a member of a political party at any time after the immediately preceding primary election would broaden the current filing prohibitions to preclude independent candidacies by persons formerly affiliated with a political party for the year preceding the primary election. The constitutionality of this provision, known popularly as a "disaffiliation provision," was also upheld by the United States Supreme Court in Storer. The court found that the one-year disaffiliation provision of a California law furthered that state's interest in the stability of its political system and that interest was not only permissible but compelling and outweighed the interest the candidate and his supporters may have in making a late, rather than an early, decision to seek independent ballot status. The one-year disaffiliation provision may also serve to prevent the parties from seeking to run a nominal independent against a primary winner who did not have the official party endorsement, thus protecting these insurgent winners from party-sponsored retribution.

This bill will take effect on January 1 following the date of enactment. It is the same as Assembly Bill No. 2228.

STATEMENT TO

SENATE, No. 1227

with Senate Floor Amendments
(Proposed By Senator KAVANAUGH)

ADOPTED: JUNE 29, 1998

These amendments clarify that a person shall be ineligible to file a petition for direct nomination as an independent candidate for public office if the person voted in the primary election held in the previous calendar year; was a member of a political party at any time after the primary election held in the previous calendar year; or unsuccessfully sought the nomination of a political party to that office in the current calendar year.

To reflect the new filing deadline established by the bill, the amendments also change the deadline by which elections officials must pass upon the validity of objections to petitions.

STATEMENT TO

SENATE SUBSTITUTE FOR
SENATE, No. 1227

with Senate Floor Amendments
(Proposed By Senators LYNCH and KAVANAUGH)

ADOPTED: OCTOBER 22, 1998

These amendments clarify that a candidate nominated directly by petition who alleges an invasion of rights under the petition must file an application or complaint with the Superior Court on or before the twelfth day after the deadline for filing petitions, rather than "at least twelve days after" the deadline.

ASSEMBLY, No. 2228

STATE OF NEW JERSEY

208th LEGISLATURE

INTRODUCED JUNE 15, 1998

Sponsored by:

Assemblyman REED GUSCIORA

District 15 (Mercer)

Assemblyman MICHAEL PATRICK CARROLL

District 25 (Morris)

SYNOPSIS

Changes deadline for filing petitions for direct nomination by petition; prohibits primary election loser from running as independent in following general election; prohibits independent candidacy under certain circumstances.

CURRENT VERSION OF TEXT

As introduced.



A2228 GUSCIORA, CARROLL

2

1 AN ACT changing the eligibility and deadline for filing certain petitions
2 of nomination and amending R.S.19:13-4, R.S.19:13-8 and
3 R.S.19:13-9.

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

7
8 1. R.S.19:13-4 is amended to read as follows:

9 19:13-4. Such petition shall set forth the names, places of residence
10 and post-office addresses of the candidates for the offices to be filled,
11 the title of the office for which each candidate is named, that the
12 petitioners are legally qualified to vote for such candidates and pledge
13 themselves to support and vote for the persons named in such petition
14 and that they have not signed any other petition of nomination for the
15 primary or for the general election for such office.

16 In the case of a petition or petitions nominating electors of
17 president and vice president of the United States, the names of the
18 candidates for president and vice president for whom such electors are
19 to vote may be included in the petition or petitions, but the petition or
20 petitions shall not include the names of any candidates for president or
21 vice president who have been nominated at a convention of a political
22 party, as defined by this title.

23 The petition shall also state in not more than three words the
24 designation of the party or principles which the candidates therein
25 named represent, but such designation shall not contain the designation
26 name, derivative, or any part thereof as a noun or an adjective of any
27 political party entitled to participate in the primary election.

28 The petition shall also include the request that the names of the
29 candidates and their designations of party or principles be printed upon
30 the ballots to be used at the ensuing general election.

31 No such petition shall undertake to nominate any candidate who
32 has: (1) **[has]** accepted the nomination for the primary for such
33 position; (2) voted in the immediately preceding primary election for
34 the general election; (3) been a member of a political party at any time
35 after the immediately preceding primary election for the general
36 election; or (4) unsuccessfully sought the nomination of a political
37 party to such position in the primary election.

38 Each petition shall be arranged to contain double spacing between
39 the signature lines of the petition, so that each signer thereof is
40 afforded sufficient space to provide his or her printed name, address
41 and signature.

42 Any form of a petition of nomination, other than petitions for
43 federal office, which is provided to candidates by the Secretary of

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 State, the county clerk, or the municipal clerk shall contain the
2 following notice: "Notice: All candidates are required by law to
3 comply with the provisions of the 'New Jersey Campaign Contributions
4 and Expenditures Reporting Act.' For further information, please call
5 (insert phone number of the Election Law Enforcement Commission)."
6 (cf: P.L.1994, c.77, s.5)

7

8 2. R.S.19:13-8 is amended to read as follows:

9 19:13-8. A candidate nominated for an office in a petition shall
10 manifest his acceptance of such nomination by a written acceptance
11 thereof, signed by his hand, upon or annexed to such petition, to which
12 shall be annexed the oath of allegiance prescribed in section 41:1-1 of
13 the Revised Statutes duly taken and subscribed by him before an
14 officer authorized to take oaths in this State, or if the same person be
15 named for the same office in more than one petition, annexed to one
16 of such petitions. Such acceptance shall certify that the candidate is
17 a resident of and a legal voter in the jurisdiction of the office for which
18 the nomination is made. No candidate so named shall sign such
19 acceptance if he has: (1) signed an acceptance for the primary
20 nomination or any other petition of nomination under this chapter for
21 such office; (2) voted in the immediately preceding primary election to
22 the general election; (3) been a member of a political party at any time
23 after the immediately preceding primary election for the general
24 election; or (4) unsuccessfully sought the nomination of a political
25 party to such position in the primary election.

26 (cf: P.L.1949, c.24, s.2)

27

28 3. R.S.19:13-9 is amended to read as follows:

29 19:13-9. All such petitions and acceptances thereof shall be filed
30 with the officer or officers to whom they are addressed before 4:00
31 p.m. of the **[54th day next preceding the]** day of the holding of the
32 primary election for the general election in this Title provided. All
33 petitions when filed shall be open under proper regulations for public
34 inspection.

35 Notwithstanding the above provision, all petitions and acceptances
36 thereof nominating electors of candidates for President and Vice
37 President of the United States, which candidates have not been
38 nominated at a convention of a political party as defined by this Title,
39 shall be filed with the Secretary of State before 4:00 p.m. of the 99th
40 day preceding the general election in this Title provided. All petitions
41 when filed shall be opened under proper regulations for public
42 inspection.

43 The officer or officers shall transmit to the Election Law
44 Enforcement Commission the names of all candidates, other than
45 candidates for federal office, nominated by petition and any other
46 information required by the commission in the form and manner

1 prescribed by the commission and shall notify the commission
2 immediately upon the withdrawal of a petition of nomination.
3 (cf: P.L.1989, c.70, s.1)

4

5 4. This act shall take effect January 1 following the date of
6 enactment.

7

8

9

STATEMENT

10

11 This bill changes, from the 54th day prior to the day of the primary
12 election to the day of the primary election, the deadline for the filing
13 of petitions for the direct nomination by petition of candidates for
14 public office.

15 The bill at the same time prohibits a person from either filing
16 petitions of nomination or signing an acceptance of nomination to run
17 as an independent candidate if that person voted in the immediately
18 preceding primary election to the general election or was a member of
19 a political party at any time after the immediately preceding primary
20 election for the general election.

21 The bill also prohibits a person who unsuccessfully sought the
22 nomination of a political party in a primary election from either filing
23 petitions of nomination or signing an acceptance of nomination to run
24 as an independent candidate for that office in the following general
25 election.

26 The change of the filing deadline is the result of the U.S. Court of
27 Appeals' recent decision in Council of Alternative Political Parties v.
28 Hooks, 121 F. 3rd 876 (3rd Cir. 1997), in which the court found that
29 requiring nominating petitions to be filed nearly seven months prior to
30 the general election burdened the plaintiffs' associational rights by
31 depriving alternative parties and their supporters the ability to react to
32 events occurring after the deadline. The deadline also required
33 candidates to collect signatures when the election was remote and
34 voters generally uninterested. In addition, because the early deadline
35 made it more difficult to place candidates on the ballot, the court
36 found that it hindered the ability of alternative political parties to
37 achieve major party status.

38 Requiring independent candidates to file on the day of the primary,
39 instead of 54 days prior thereto, protects those candidate's
40 associational rights while allowing the state to maintain its recognized
41 and compelling interest in protecting the integrity of the various routes
42 to the ballot. Changing the date would allow alternative political
43 parties the opportunity to recruit and nominate candidates over a
44 longer period, react to events for almost two additional months and
45 propose alternatives if disaffection with the potential nominees of the
46 major parties emerges. It would also allow them to gather signatures

1 at a time when the election is generating increased interest, thus
2 strengthening their chances of getting on the ballot and achieving
3 major party status. Finally, it would simultaneously identify all
4 candidates for a particular office, both party-affiliated and
5 independent, placing them on an equal footing before the electorate.

6 Selecting the day of the primary election would also limit the ability
7 of a person who unsuccessfully sought office as a candidate in that
8 primary election from running for that office as an independent in the
9 following general election and protecting the parties from "intraparty
10 feuding." The constitutionality of prohibiting a defeated primary
11 candidate from running as an independent has been affirmed by the
12 United States Supreme Court in Storer v. Brown, 94 S.Ct. 1274
13 (1974), since this type of "sore-loser" provision furthers a state's
14 interest in stabilizing its political system by guarding against splintered
15 parties and unrestrained factionalism and in protecting the routes to
16 the ballot.

17 Finally, prohibiting a person from running as an independent if that
18 person voted in the immediately preceding primary election or was a
19 member of a political party at any time after the immediately preceding
20 primary election would broaden the current filing prohibitions to
21 preclude independent candidacies by persons formerly affiliated with
22 a political party for the year preceding the primary election. The
23 constitutionality of this provision, known popularly as a "disaffiliation
24 provision," was also upheld by the United States Supreme Court in
25 Storer. The court found that the one-year disaffiliation provision of
26 a California law furthered that state's interest in the stability of its
27 political system and that interest was not only permissible but
28 compelling and outweighed the interest the candidate and his
29 supporters may have in making a late, rather than an early, decision to
30 seek independent ballot status.

ASSEMBLY STATE GOVERNMENT COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR ASSEMBLY, No. 2228

STATE OF NEW JERSEY

DATED: DECEMBER 10, 1998

The Assembly State Government Committee reports favorably an Assembly Committee Substitute for Assembly, No. 2228.

This committee substitute:

1) establishes the primary election day (rather than 54 days before the primary) as the deadline for filing direct nomination petitions for public office;

2) prevents an unsuccessful primary candidate from seeking the same office through direct nomination by petition if, for any reason, direct nomination petitions are filed after primary election day; and

3) prohibits a candidate for the office of member of the House of Representatives from seeking that office in more than one congressional district in the same year.

The change of the filing deadline is in response to the U.S. Court of Appeals' recent decision in Council of Alternative Political Parties v. Hooks, 121 F. 3rd 876 (3rd Cir. 1997), in which the court found that requiring nominating petitions to be filed nearly seven months prior to the general election burdened the plaintiffs' associational rights by depriving alternative parties and their supporters of the ability to react to events occurring after the deadline. The deadline also required candidates to collect signatures when the election was remote and voters generally uninterested. In addition, because the early deadline made it more difficult to place candidates on the ballot, the court found that it hindered the ability of alternative political parties to achieve major party status.

Requiring independent candidates to file on the day of the primary, instead of 54 days prior thereto, protects those candidate's associational rights while allowing the State to maintain its recognized and compelling interest in protecting the integrity of the various routes to the ballot. Changing the date would allow alternative political parties the opportunity to recruit and nominate candidates over a longer period, react to events for almost two additional months and propose alternatives if disaffection with the potential nominees of the major parties emerges. It would also allow them to gather signatures at a time when the election is generating increased interest, thus

strengthening their chances of getting on the ballot and achieving major party status. Finally, it would simultaneously identify all candidates for a particular office, both party-affiliated and independent, placing them on an equal footing before the electorate.

Selecting the day of the primary election as the day for filing petitions by independent candidates would also limit the ability of a person who unsuccessfully sought office as a candidate in that primary election from running for that office as an independent in the following general election, thus protecting the parties from "intraparty feuding." The constitutionality of prohibiting a defeated primary candidate from running as an independent has been affirmed by the United States Supreme Court in Storer v. Brown, 94 S.Ct. 1274 (1974), since this type of "sore-loser" provision furthers a state's interest in stabilizing its political system by guarding against splintered parties and unrestrained factionalism and in protecting the routes to the ballot.

In addition, the bill also provides that no petition for direct nomination, including a petition filed pursuant to R.S.19:13-19, which, for any reason, is filed after the deadline established in R.S.19:13-9 shall nominate to any elective public office a candidate who unsuccessfully sought the nomination of a political party to that office in the primary election held in the same calendar year. An unsuccessful primary candidate is similarly prohibited from signing an acceptance of such a petition for direct nomination.

Finally, the current law prohibits a candidate from accepting direct nomination by petition for a public office if the candidate has signed an acceptance for the primary nomination or any other petition of nomination "for such office." In a recent decision, the Superior Court, Law Division, held that this provision did not prevent an unsuccessful primary candidate for the office of member of the House of Representatives from seeking direct nomination by petition for that office in a different congressional district. Verniero v. Mayer, Superior Court, Law Division (Mercer County), Docket No. 2801-98 (decided August 19, 1998).

Unfortunately, the court's interpretation of the statute allows certain candidates to, in effect, run twice for the same office in the same year. Changing the filing deadline for direct nomination petitions to the day of the primary elections should address this situation. Nevertheless, in order to ensure that no individual will launch dual congressional candidacies, the bill prohibits a candidate for the office of member of the House of Representatives from accepting direct nomination by petition or nomination for the primary if the candidate has accepted either form of nomination in another congressional district in the same year.

This committee substitute is identical to Senate Bill No. 1227 SS, 1R.

Office of the Governor
NEWS RELEASE

PO BOX 004
TRENTON, NJ 08625

CONTACT: Jayne O'Connor
609-777-2600

RELEASE: December 24, 1998

Governor Whitman Signs "Sore Loser Law"

Gov. Christie Whitman today signed the so-called "Sore Loser Law," which changes filing deadlines for candidates and prohibits "sore loser" candidates from running for office as an independent after losing a primary election for the same office.

S-1227, sponsored by Senators John Lynch (D-Middlesex/Somerset/Union) and Walter Kavanaugh (R-Morris/Somerset) and Assembly Members Reed Gusciora (D-Mercer) and Michael Carroll (R-Morris), prohibits a candidate for the House of Representatives from running for a seat in the House in one Congressional district if that person had previously accepted the party nomination for a seat in another district during the same calendar year.

The bill also gives independent candidates an additional 54 days to file their petitions by changing the filing deadline to the day of the primary election. Previously, the deadline was 54 days before the primary election.

In last fall's election, Carl Mayer ran on the Green Party ticket in the 6th Congressional district after losing a bid for the Democratic nomination in the 12th Congressional district.