

Legislature—Vacancies—1988 N.J. Sess. Law Serv. 126 (West) (to be codified at N.J. Stat. Ann. §§ 19:3-28; :13-20; :27-4, -5, -6.1, -8, -9, -11, -11.1 to -11.4).

The New Jersey Legislature has enacted legislation which revises the procedure for filling vacancies in legislative offices. This legislation eliminates the special election to fill vacancies and creates selection committees to choose replacement candidates or interim successors.

A vacancy may arise when a candidate nominated in a primary election is unable to participate in the general election, when a candidate cannot be selected at a primary election, or when a current office holder is unable to complete the term.¹ A replacement candidate or an interim successor to fill the vacancy will be chosen by a selection committee.² The selection meeting is held by the political party in which the candidate or office holder was a member.³

The new legislation requires that notice of the meeting be given no later than seven days after the vacancy.⁴ A majority of the members eligible to vote must be present at the selection meeting in order to conduct business.⁵ Members must be appointed to the committee at least seven days prior to the meeting in order to be eligible to vote.⁶

When a committee meeting is held to select a candidate for a position other than a statewide office, the chairman of the committee is selected by a majority vote of the persons present with the right to vote.⁷ The chairman may present rules to conduct the meeting.⁸ The rules must be approved by a majority of the

¹ N.J. STAT. ANN. § 19:13-20. If a candidate cannot be selected at a primary election because of a tie vote, the selection committee must choose among those candidates with tie votes. *See id.* § 19:27-11.2.

² *Id.* § 19:13-20(a).

³ *Id.* The members of the selection committee are determined by whether the office is a state or county office. *See id.* § 19:13-20(a)(1)-(4).

⁴ *Id.* § 19:13-20(b)(1), (2). The state committee is not required to give notice within a certain time limit. *Id.* § 19:13-20(b)(4).

⁵ *Id.* § 19:13-20(a).

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

committee.⁹ In the event a majority is not reached, the members may adopt other rules by majority vote.¹⁰ All contested votes will be by secret ballot.¹¹

A selection of a candidate must be made at least forty-eight days prior to the general election.¹² A statement of the selection must be filed with the secretary of state or the appropriate county clerk.¹³

When a vacancy occurs in the state legislature,¹⁴ it will be filled at the next general election which must occur more than fifty-one days after the vacancy.¹⁵ However, a vacancy which immediately precedes the expiration of the term in which the vacancy occurs will not be filled at the general election.¹⁶ If the vacancy occurs on or before the sixth day preceding the filing deadline for nominating petitions for the primary election, such petitions may be filed in the usual manner.¹⁷ If no such petition is filed, or if the vacancy occurs within six days of the filing deadline, then the selection procedure above should be utilized.¹⁸

Under the prior statute, a vacancy in the state legislature was filled at a special election called by a writ issued by the House in which the vacancy occurred, and in the event that the vacancy occurred after the legislature adjourned for the term, the Governor had the discretion to issue a writ of election.¹⁹

When a vacancy in a county or municipal office occurs within eleven days of the filing deadline for nominating petitions for the primary election and fifty-one days before the general election, each political party may select a candidate following the procedure above.²⁰

A vacancy in the state legislature will remain vacant until the

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.* § 19:13-20(d).

¹³ *Id.* § 19:13-20(d)(1)-(3); *see id.* § 19:13-20(e) for the requirements of the statement of selection. *See also id.* §§ 19:27-11, -11.1, -11.2.

¹⁴ *Id.* § 19:27-11.1.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.* § 19:27-4 (part of provision deleted by 1988 N.J. Sess. Law Serv. 126 (West)).

²⁰ *Id.* § 19:27-11.

expiration of that member's term if the member was not elected to the office.²¹

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²¹ *Id.* § 19:27-11.4.