

ASSEMBLY, No. 486

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblyman JAY WEBBER

District 26 (Essex, Morris and Passaic)

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District 24 (Morris, Sussex and Warren)

Co-Sponsored by:

Assemblywoman N.Munoz

SYNOPSIS

Prohibits dual elective office holding and holding of elective office and public office or position.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** concerning elective and appointive office holding and
 2 amending R.S.19:3-5, N.J.S.40A:9-4 and P.L.2007, c.161 and
 3 supplementing chapter 3 of Title 19 of the Revised Statutes.

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

7
 8 1. R.S.19:3-5 is amended to read as follows:

9 19:3-5. No person shall hold at the same time more than one of
 10 the following offices: elector of President and Vice-President of the
 11 United States, member of the United States Senate, member of the
 12 House of Representatives of the United States, member of the
 13 Senate or of the General Assembly of this State, county clerk,
 14 register, surrogate or sheriff.

15 No person shall hold the office of member of the Senate or the
 16 General Assembly of this State and, at the same time, hold any
 17 other elective public office in this State~~], except that any]~~. Any
 18 person who holds the office of member of the Senate or the General
 19 Assembly and, at the same time, holds any other elective public
 20 office on the effective date of [P.L.2007, c.161 may continue to
 21 hold that office of member of the Senate or that office of member of
 22 the General Assembly, and may hold that other elective public
 23 office at the same time if service in the Senate or the General
 24 Assembly and the other elective office are continuous following the
 25 effective date of P.L.2007, c.161.] P.L. , c. (pending before the
 26 Legislature as this bill) may continue to hold such offices until the
 27 expiration date of the term of office that occurs next following the
 28 effective date, from which date thereafter the person may hold only
 29 one elective public office.

30 No person shall be elected an elector of President and Vice-
 31 President of the United States unless he shall possess the
 32 qualifications of a legal voter of the State, shall be of the age of 25
 33 years or upwards and shall have been a citizen of the United States
 34 seven years next preceding such election.

35 No person shall be elected a member of the House of
 36 Representatives, or an elector of President and Vice-President who
 37 shall hold any office of trust or profit under the United States.
 38 (cf: P.L.2007, c.161, s.1)

39
 40 2. N.J.S.40A:9-4 is amended to read as follows:

41 40A:9-4. (1) It shall be unlawful for a person to hold
 42 simultaneously an elective county office and an elective municipal
 43 office.

44 (2) It shall be ~~[lawful]~~ unlawful for a member of the
 45 Legislature of the State, and for a person holding elective county

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 office or elective municipal office, to hold simultaneously any
2 salaried appointive office or position in State, county or municipal
3 government or on any authority thereof. A person who, on the
4 effective date of P.L. , c. (pending before the Legislature as this
5 bill), holds simultaneously an elective public office and an
6 appointive public office may continue to hold such offices until the
7 expiration date of the term of the elective office that occurs next
8 following the effective date, from which date thereafter the person
9 may hold only one public office or position.

10 (3) Nothing contained in this section shall be deemed to prevent
11 the incumbent of any office from abstaining from voting in any
12 matter in which the incumbent believes he or she has a conflict of
13 duty or of interest, nor to prevent a challenge of a right to vote on
14 that account under the principles of the common law or any statute.

15 (4) a. (Deleted by amendment, P.L.2007, c.161).

16 b. (Deleted by amendment, P.L.2007, c.161).

17 c. For the purposes of this section the term "elective office"
18 shall mean an office to which an incumbent is elected by the vote of
19 the general electorate.

20 (5) Notwithstanding the provision of paragraph (1) of this
21 section, a person who, on the effective date of **【P.L.2007, c.161】**
22 P.L. , c. (pending before the Legislature as this bill), holds
23 simultaneously an elective county office and an elective municipal
24 office may continue to hold **【the elective offices simultaneously if**
25 service in those elective offices is continuous following the
26 effective date of P.L.2007, c.161**】** such offices until the expiration
27 date of the term of office that occurs next following the effective
28 date, from which date thereafter the person may hold only one
29 elective public office.

30 (6) It shall be lawful for a member of a volunteer fire company,
31 ambulance, first aid, hazardous materials, or rescue squad,
32 including an officer of the company or squad, to serve as an elected
33 official on the governing body of the municipal government
34 wherein the emergency services are provided; however, the
35 volunteer shall recuse himself from any vote concerning the
36 emergency services provider of which he is a member.

37 (cf: P.L.2009, c.206, s.1)

38

39 3. Section 3 of P.L.2007, c.161 (C.19:3-5.2) is amended to read
40 as follows:

41 3. a. For elective public office other than as provided in
42 R.S.19:3-5 or N.J.S.40A:9-4, a person elected to public office in
43 this State shall not hold simultaneously any other elective public
44 office.

45 b. Notwithstanding the provision of subsection a. of this
46 section, a person who holds simultaneously more than one elective
47 public office on the effective date of **【P.L.2007, c.161** may continue
48 to hold the elective public offices simultaneously if service in those

elective public offices is continuous following the effective date of P.L.2007, c.161] P.L. , c. (pending before the Legislature as this bill) may continue to hold such offices until the expiration date of the term of office that occurs next following the effective date, from which date thereafter the person may hold only one elective public office.

(cf: P.L.2007, c.161, s.3)

4. (New section) a. A person elected to any public office in this State shall not hold simultaneously any salaried appointive office or position in State, county, or municipal government, or on any authority thereof.

b. Notwithstanding the provisions of subsection a. of this section, a person who, on the effective date of P.L. , c. (pending before the Legislature as this bill), holds simultaneously an elective public office and an appointive public office may continue to hold such offices until the expiration date of the term of the elective office that occurs next following the effective date, from which date thereafter the person may hold only one such office.

5. This act shall take effect immediately.

STATEMENT

Under current law, a person elected to public office in this State is prohibited from holding simultaneously any other elective public office. Persons who simultaneously held more than one elective public office on February 1, 2008 were permitted to continue to hold the elective public offices simultaneously if service in those elective public offices was continuous following that effective date. This bill removes that exception. Persons who were allowed to hold multiple elective public offices will be permitted to hold those offices only until the expiration date of the term of office that occurs next following the bills' effective date. From then on, the person may hold only one elective public office.

This bill also expands this prohibition against dual office holding by also prohibiting a person elected to any public office in this State from simultaneously holding a salaried appointive public office or position in State, county, or municipal government, or on any authority thereof.

The bill is prospective in its application, so that a person who holds simultaneously an elective public office and a salaried appointive public office on the effective date of the bill may continue to hold the elective and appointive public offices simultaneously until the expiration date of the term of the elective office that occurs next following the bill's effective date. From then on, the person may hold only one office.