SENATE, No. 1350

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 10, 2020

Sponsored by:
Senator SHIRLEY K. TURNER
District 15 (Hunterdon and Mercer)

SYNOPSIS

Establishes new procedure to fill congressional vacancies by election; eliminates special election option; requires congressional vacancy be filled on general election day; requires Governor to make appointment from same party to temporarily fill Senate vacancy.

CURRENT VERSION OF TEXT

As introduced.

AN ACT concerning the filling of congressional vacancies and supplementing Title 19 of the Revised Statutes, amending R.S.19:27-12, and repealing various sections of statutory law.

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

1. (New section) If a vacancy occurs in the representation of this State in the United States Senate, the Governor shall make a temporary appointment to fill the vacancy within 30 days of the occurrence of the vacancy. If the person vacating the office is a member of a political party, the temporary appointee shall be a member of the same political party. The appointee shall serve until the person elected at the next applicable general election is qualified and assumes office.

If the vacancy occurs on or before the 85th day preceding the general election for that year, the Governor shall issue a writ of election on or before the 70th day preceding the election designating the day of that general election as the election day to fill the vacancy. If the vacancy occurs after the 85th day preceding the general election for that year, the Governor shall issue a writ of election on or before the 70th day preceding the election designating the day of the general election in the following year as the election day to fill the vacancy. Notwithstanding the provisions of this section, a vacancy shall not be filled at the general election which immediately precedes the expiration of the term in which the vacancy occurs.

If the vacancy occurs after the 85th day preceding a general election but on or before the 70th day preceding the primary election for the next general election, the candidates nominated for election to fill the vacancy shall be selected at that primary election. If the vacancy occurs after the 70th day preceding the primary election for the general election, the Governor shall issue a writ of election within 15 days of the occurrence of the vacancy. The Secretary of State shall, upon receipt of the writ, post the writ in a conspicuous location on the official website of the Division of Elections. Each political party shall select its candidate to fill such vacancy in the same manner prescribed in R.S.19:13-20 for selecting candidates to fill vacancies arising among candidates nominated at primary elections, except that the time for making such selection and filing the statement thereof shall be on or before the last Monday in July. Petitions of nomination of other candidates shall be filed in the office of the Secretary of State no later than the last Monday in July. The Secretary of State shall certify to the clerk and county board of each county affected by the

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 <u>thus</u> is new matter.

vacancy a statement of all candidates selected and nominated for the office so vacated in accordance with R.S.19:13-22.

2. (New section) If a vacancy occurs in the representation of this State in the United States House of Representatives, the Governor shall issue a writ of election to fill such vacancy on or before the 70th day preceding the election, unless the vacancy occurs in an even-numbered year after the 85th day preceding the general election in which case the Governor shall not issue a writ of election. The Secretary of State shall, upon receipt of the writ, post the writ in a conspicuous location on the official website of the Division of Elections.

If the vacancy occurs on or before the 85th day preceding the general election for that year, the writ of election shall designate the day of that general election as the election day to fill the vacancy. If the vacancy occurs in an odd-numbered year after the 85th day preceding the general election, the writ of election shall designate the day of the general election in the following year as the election day to fill the vacancy.

If the vacancy occurs after the 85th day preceding a general election but on or before the 70th day preceding the primary election for the next general election, the candidates nominated for election to fill the vacancy shall be selected at that primary election. If the vacancy occurs after the 70th day preceding the primary election for the general election, each political party shall select its candidate to fill such vacancy in the same manner prescribed in R.S.19:13-20 for selecting candidates to fill vacancies arising among candidates nominated at primary elections, except that the time for making such selection and filing the statement thereof shall be on or before the last Monday in July. Petitions of nomination of other candidates shall be filed in the office of the Secretary of State on or before the last Monday in July. The Secretary of State shall certify to the clerk and county board of each county affected by the vacancy a statement of all candidates selected and nominated for the office so vacated in accordance with R.S.19:13-22.

3. R.S.19:27-12 is amended to read as follows:

19:27-12. Notice of special elections other than those to fill vacancies in the **[**United States senate, United States house of representatives,**]** state senate or general assembly shall be given in accordance with the provisions of any statute, ordinance or resolution relative thereto. If such statute, ordinance or resolution fails to provide for the giving of notice by officials to officials or by officials to the public, such notice shall be given in the manner herein provided for giving notice of the general election so far as may be.

(cf: R.S.19:27-12)

4. The following sections are repealed:
R.S.19:3-26;
R.S.19:3-27;
R.S.19:27-4;
R.S.19:27-6;
R.S.19:27-9; and
Section 1 of P.L.1945, c.206 (C.19:27-10.1).

5. This act shall take effect immediately.

STATEMENT

This bill repeals the current statutory provisions regarding the filling of vacancies in the United States Senate and House of Representatives and establishes a new procedure for the filling of such vacancies.

Under the bill, the Governor would be required to make a temporary appointment to fill a Senate vacancy within 30 days of the occurrence of the vacancy. If the person vacating the office is a member of a political party, the temporary appointee must be a member of the same political party. The appointee would serve until a successor is elected and assumes office.

If the vacancy occurs on or before the 70th day preceding the general election, the vacancy would be filled at that general election. If the vacancy occurs after the 70th day preceding the general election, the vacancy would be filled at the following year's general election. A vacancy would not be filled at the general election which immediately precedes the expiration of the term in which the vacancy occurs. If the vacancy in the Senate occurs after the 70th day preceding a general election but on or before the 70th day preceding the primary election, the candidates would be nominated at that primary election. If the vacancy occurs after the 70th day preceding the primary election, the candidates would be nominated by the State committee of the relevant political party, as provided by law, within 10 days of the issuance of the writ of election. Petitions of nomination of other candidates must be filed with the Secretary of State within the same 10-day time span.

The bill also establishes the procedure for the filling of vacancies in the United States House of Representatives. In the case of a vacancy in the House, the Governor would not make a temporary appointment. Instead, the Governor would issue a writ of election to fill the vacancy, except that no writ of election would be issued if the vacancy occurs in an even-numbered year after the 70th day preceding the general election. If the vacancy occurs on or before the 70th day preceding the general election, the vacancy would be filled at that general election. If the vacancy occurs in an odd-numbered year and after the 70th day preceding the general

election, the vacancy would be filled at the following year's general election. If the vacancy occurs after the 70th day preceding a general election but on or before the 70th day preceding the primary election, the candidates would be nominated at that primary election. If the vacancy occurs after the 70th day preceding the primary election, the candidates would be nominated by those members of the county committee or committees wherein the vacancy has occurred who represent those portions of the respective county or counties which are comprised in the district from which the candidate is to be elected, as provided by law, within 10 days of the issuance of the writ of election. Petitions of nomination of other candidates must be filed with the Secretary of State within the same 10-day time span.

The sections of law that would be repealed are:

- R.S.19:3-26, which provides the procedure for filling a U.S. Senate vacancy and permits the Governor to make a temporary appointment to fill the vacancy and to call a special election to fill the vacancy;
- R.S.19:3-27, which requires the Governor to issue a writ of election to fill a vacancy in the House of Representatives unless the term is set to expire within six months of the occurrence of the vacancy;
- R.S.19:27-4, which requires the Governor to issue a writ of election to fill a vacancy in the Senate or House of Representatives unless the term is set to expire within six months of the occurrence of the vacancy;
- R.S.19:27-6, which provides the timeframe and procedure for the Governor to issue a writ of election to fill a congressional vacancy and provides the Governor discretion to call a special election; and
- Section 1 of P.L.1945, c.206 (C.19:27-10.1), which provides the procedure for filling a vacancy in the House of Representatives between the specified dates preceding the primary and general elections if more than one year remains on the unexpired term.

The bill also amends a section of law to remove a reference to special elections to the United States Senate or House of Representatives. Under the bill, congressional vacancies would only be filled on a general election day or, in the case of Senate vacancies, temporarily by appointment by the Governor.