

# N.J. LEGISLATURE SHOULD ACT TO PROVIDE FOR SPECIAL PRIMARY IN CASE GOVERNOR'S OFFICE IS VACATED

BY JEFF BRINDLE | 05/25/15 7:01pm

A decades-long oversight in the New Jersey Constitution could cause havoc if a vacancy in the Office of the Governor were to occur.

Fortunately, a constitutional amendment introduced earlier this month will avoid the dilemma.

The problem stems from the fact that New Jersey's Constitution of 1844 failed to provide for a special primary election for governor in the event of a vacancy in that office.

The reason is simple. There were no primaries in those days as candidates for governor were selected by party nominating conventions.

The 1844 constitution, however, did provide for a special general election for governor.

If the Office of Governor becomes vacant prior to 60 days before the general election, a new governor would be elected in that general election.

On the other hand, if the office becomes vacant within 60 days of the general election, a new governor would be elected the next succeeding November.

In the interim, the N.J. Senate President would assume the Office of Governor and retain the position as Senate President.

The state's modern day constitution was ratified in 1947 and became effective Jan. 1, 1948.

Though primaries have been held since 1913, the modern day document simply carried forward the language of the 1844 constitution, making no provision for a special gubernatorial primary.

On Jan. 31, 2001, Gov. Christine Todd Whitman resigned as governor. Three years later, on Nov. 15, 2004, Gov. James E. McGreevey resigned.

In both instances, the lack of constitutional language providing for a special gubernatorial primary was of no consequence. Both governors resigned within 60 days of election so the process proceeded as normal.

That is because Senate President Donald DiFrancesco served out Whitman's term during the 2001 elections,

while Senate President Richard Codey replaced McGreevey and served as governor through the 2005 elections. Neither ran in the general election.

The resignations of successive governors set in motion a debate that resulted in the ratification of a 2005 constitutional amendment that created the Office of the Lieutenant Governor.

Similar to past procedure, the lieutenant governor assumes the governorship upon a gubernatorial vacancy, but only until a special general election is called.

But once again, the 2005 amendment carried forward the 1844 language, overlooking the need for a constitutional provision enabling a special gubernatorial primary.

This oversight perpetuates the potential for havoc if a vacancy in the state's highest office occurs.

There is no problem if a vacancy occurs within 60 days of the general election. The primary would be held the following June and the general election the following November.

But what if a vacancy were to occur 61 days before the general election?

First, the constitution does not make provisions for a special primary election and second, even if it did, there would not be enough time for a special primary to be organized.

So, the constitution needs to be amended to remedy this oversight.

A resolution (SCR-164) introduced by state Senator Jim Whelan (D-Atlantic) does just that. The proposed amendment extends from 60 to 240 days before the general election the cutoff point for a special election. By so doing, it ensures that the special primary will always be held on a regular primary day, both saving money and eliminating confusion.

One simple sentence will eliminate a glaring hole in the constitution that has been with us for decades.

The bill was discussed at the Senate State Government Committee meeting on May 14, but no action was taken. It is hoped that the bill will move quickly through the N.J. Legislature so it can go on the ballot this fall.

The legislature also should approve other related legislation by Sen. Whelan; S-1647 would authorize public financing of primary election campaigns in the event of a special election.

These two legislative initiatives will correct major oversights in the event of a special election.

*Jeff Brindle is the Executive Director of the New Jersey Election Law Enforcement Commission. The opinions presented here are his own and not necessarily those of the Commission.*