SENATE CONCURRENT RESOLUTION No. 78

STATE OF NEW JERSEY
216th LEGISLATURE

INTRODUCED FEBRUARY 27, 2014

Sponsored by:
Senator SHIRLEY K. TURNER
District 15 (Hunterdon and Mercer)
Senator LINDA R. GREENSTEIN
District 14 (Mercer and Middlesex)

SYNOPSIS
Proposes constitutional amendment to provide for suspension and temporary replacement of indicted elected official with vacancy in office declared upon conviction.

CURRENT VERSION OF TEXT
As introduced.

(Sponsorship Updated As Of: 3/28/2014)
A CONCURRENT RESOLUTION proposing to amend the Constitution of the State of New Jersey by the addition of a new section to Article VII thereof.

BE IT RESOLVED by the Senate of the State of New Jersey (the General Assembly concurring):

1. The following proposed amendment to the Constitution of the State of New Jersey is hereby agreed to:

PROPOSED AMENDMENT

a. Amend Article VII by adding a new Section IV to read as follows:

SECTION IV

1. When a person holding elective public office in this State is indicted for a crime under the laws of this State or of the United States, or for an offense in any other jurisdiction that would be a crime if committed in New Jersey, that person shall be suspended from office without compensation until the charges are dismissed, the person is acquitted of the charges, or the person is convicted.

2. During the period a person is suspended under paragraph 1, the elective public office shall be filled temporarily in the following manner. If the indicted elected official is the Governor, the provisions of Article V, Section I, paragraph 7 concerning a temporary absence of the Governor shall apply. If the indicted elected official is the Lieutenant Governor, the Governor shall appoint the temporary replacement. If the indicted elected official is a Senator who is a member of the same political party as the political party of the majority of the members in the Senate, the Senate President shall appoint the temporary replacement. If the indicted elected official is a Senator who is a member of a political party that is not the same as the political party of the majority of the members in the Senate, the Minority Leader of that party shall appoint the temporary replacement. If the indicted elected official is a member of the General Assembly who is a member of the same political party as the political party of the majority of the members of the General Assembly, the Speaker of the General Assembly shall appoint the temporary replacement. If the indicted elected official is a member of the General Assembly who is a member of a political party that is not the same as the political party of the majority of the members in the General Assembly, the Minority Leader of that party shall appoint the temporary replacement. If the indicted elected official is a member of a county board of chosen freeholders, the remaining members of the board by a majority vote thereof shall appoint a temporary replacement who is a member of the same political party as the indicted freeholder.
elected official is a county executive, county clerk or sheriff, the members of the county’s board of chosen freeholders by a majority vote thereof shall appoint a temporary replacement who is a member of the same political party as the indicted county executive, county clerk or sheriff, as may be appropriate. If the indicted elected official is a county surrogate, the Chief Justice of the Supreme Court shall appoint a temporary replacement who is a member of the same political party as the indicted county surrogate. In the case of an indicted elected official in a municipality that holds nonpartisan elections, the members of the governing body by a majority vote thereof shall appoint a temporary replacement. In the case of an indicted elected official in a municipality that holds partisan elections, the members of the governing body by a majority vote thereof shall appoint a temporary replacement who is a member of the same political party as is the indicted elected official. If the indicted elected official is a member of the board of a school district or any other public body, the remaining members of the board or public body, as may be appropriate, by a majority vote thereof shall appoint a temporary replacement.

3. If an indicted elected public official is acquitted of all charges or the charges are dismissed, the official shall be restored to office for the remainder of the term as soon as possible with full return of compensation owed and no loss of seniority. If the person is convicted, the office held by the person shall be declared vacant and shall be filled as provided by this Constitution or by law.

2. When this proposed amendment to the Constitution is finally agreed to pursuant to Article IX, paragraph 1 of the Constitution, it shall be submitted to the people at the next general election occurring more than three months after the final agreement and shall be published at least once in at least one newspaper of each county designated by the President of the Senate, the Speaker of the General Assembly and the Secretary of State, not less than three months prior to the general election.

3. This proposed amendment to the Constitution shall be submitted to the people at that election in the following manner and form:

There shall be printed on each official ballot to be used at the general election, the following:

a. In every municipality in which voting machines are not used, a legend which shall immediately precede the question as follows:

If you favor the proposition printed below make a cross (X), plus (+), or check (✓) in the square opposite the word "Yes." If you are opposed thereto make a cross (X), plus (+) or check (✓) in the square opposite the word "No."

b. In every municipality the following question:
CONSTITUTIONAL AMENDMENT TO SUSPEND AND REPLACE ANY INDICTED ELECTED OFFICIAL

Do you approve amending the Constitution to suspend and replace any elected official indicted for a crime? The elected official will be returned to office if acquitted. If the elected official is convicted, the office will be declared vacant.

INTERPRETIVE STATEMENT

This constitutional amendment provides that a person holding elective public office who is indicted for a crime will be suspended without pay until the charges are dismissed, the person is acquitted, or the person is convicted. A temporary replacement will be made by the public officer or public body designated in this amendment.

If the suspended person is acquitted or the charges are dismissed, the person would return to office as soon as possible and would receive the salary that was not paid during the suspension.

If the suspended person is convicted, the office that person held would be declared vacant and a replacement would be made as provided by current law.

STATEMENT

This constitutional amendment provides that when a person holding elective public office in this State is indicted for a crime under the laws of this State or the United States, or for an offense in any other jurisdiction that would be a crime if committed in New Jersey, that person would be suspended from office without compensation until the charges are dismissed, the person is acquitted of such charges, or the person is convicted.

During the period such a person is suspended, the public office would be filled temporarily in the following manner. If the indicted elected official is the Governor, the Lieutenant Governor, followed by the Senate President and then by the Speaker of the General Assembly, would serve as Acting Governor, as provided for currently by the Constitution. If the indicted elected official is the Lieutenant Governor, the Governor would appoint the temporary
replacement. If the indicted elected official is a Senator who is a member of the same political party as the majority of the members in the Senate, the Senate President would appoint the temporary replacement. If the indicted elected official is a General Assembly member who is a member of the same political party as the majority of the members in the General Assembly, the General Assembly Speaker would appoint the temporary replacement. If the indicted elected official is an Assembly member who is a member of a political party that is not the same as the majority of the members in the General Assembly, the Minority Leader of that party would appoint the temporary replacement. If the indicted elected official is a member of a county board of chosen freeholders, the remaining members of the board by a majority vote thereof would appoint a temporary replacement who is a member of the same political party as the indicted freeholder. If the indicted elected official is a county executive, county clerk or sheriff, the members of the county's board of chosen freeholders by a majority vote thereof would appoint a temporary replacement who is a member of the same political party as the indicted county executive, county clerk or sheriff, as may be appropriate. If the indicted elected official is a county surrogate, the Chief Justice of the Supreme Court would appoint a temporary replacement who is a member of the same political party as the indicted county surrogate. In the case of an indicted elected official in a municipality that holds nonpartisan elections, the members of the governing body by a majority vote thereof would appoint a temporary replacement. In the case of an indicted elected official in a municipality that holds partisan elections, the members of the governing body by a majority vote thereof would appoint a temporary replacement who is a member of the same political party as the indicted elected official. If the indicted elected official is a member of the board of a school district or any other public body, the remaining members of the board or public body, as may be appropriate, would appoint a temporary replacement.

If an indicted elected public official is acquitted of all charges or all charges are dismissed, the official would be restored to office as soon as possible with full return of compensation owed and no loss of seniority. If the person is convicted, the office held by the person would be declared vacant and would be filled as provided by the Constitution or statutory law.