

SENATE, No. 998

STATE OF NEW JERSEY

INTRODUCED MARCH 21, 1996

By Senator SINAGRA

1 AN ACT prohibiting the simultaneous holding of more than one of
2 certain public offices, amending R.S.19:3-5 and N.J.S.40A:9-4 and
3 supplementing Title 19 of the Revised Statutes.

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

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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 the
10 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 [Senate
13 or of the General Assembly] Legislature of this State, [county clerk,
14 register, surrogate or sheriff] an elective office of a county,
15 municipality or school district, or member of the board of education
16 of a Type I school district.

17 No person shall be elected an elector of President and
18 Vice-President of the United States unless he shall possess the
19 qualifications of a legal voter of the State, shall be of the age of 25
20 years or upwards and shall have been a citizen of the United States 7
21 years next preceding such election.

22 No person shall be elected a member of the House of
23 Representatives, or an elector of President and Vice-President who
24 shall hold any office of trust or profit under the United States.

25 (cf: P.L.1971, c.2, s.9)

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27 2. (New section) Any person who, on the effective date of this act,
28 holds more than one of the offices listed in R.S.19:3-5 may continue
29 to hold those offices and be reelected or, in the case of a member of
30 the board of education of a Type I school district, reappointed thereto
31 as long as service in the offices is continuous. In the case of the office
32 of member of the Legislature, a member of one House of the
33 Legislature who is elected to, or selected under the provisions of
34 section 8 of P.L.1988, c.126 (C.19:27-11.2) to fill a vacancy in the

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1 membership of, the other House shall be deemed to have been
2 reelected to, and the person's service upon assuming membership in
3 that other House shall be deemed to be continuous in, the office of
4 member of the Legislature for the purposes of this section.

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

7 40A:9-4. (1) [It shall be lawful for a person to hold simultaneously
8 an elective county office and an elective municipal office.

9 (2)] It shall be lawful for a member of the Legislature of the State
10 to hold simultaneously any [elective or] appointive office or position
11 in county or municipal government.

12 [(3)](2) Nothing contained in this section shall be deemed to
13 prevent the incumbent of any office from abstaining from voting in any
14 matter in which he believes he has a conflict of duty or of interest, nor
15 to prevent a challenge of a right to vote on that account under the
16 principles of the common law or any statute.

17 [(4) a.](3) Nothing herein contained shall be deemed to repeal or
18 supersede any statute prohibiting the dual holding of offices or
19 positions.

20 [b. This section shall apply to persons now holding elective offices
21 or positions with the counties and municipalities or now serving as
22 members of the Legislature of the State.

23 c. For the purposes of this section the term "elective office" shall
24 mean an office to which an incumbent is elected by the vote of the
25 general electorate.]

26 (cf: N.J.S.40A:9-4)

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28 4. This act shall take effect immediately.

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31 STATEMENT

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33 Current State law prohibits a person from simultaneously holding
34 more than one of the following offices: elector of President and
35 Vice-President of the United States, member of the United States
36 Congress, member of the Legislature, county clerk, register, surrogate
37 or sheriff. It expressly permits a person to hold simultaneously an
38 elective county office and an elective municipal office and allows a
39 member of the Legislature to hold elective or appointive office in
40 county or municipal government.

41 This bill would amend existing law to prohibit any person from
42 simultaneously holding more than one of the enumerated federal or
43 State offices or a county, municipal or school district elective office or
44 the appointive position of member of a board of education of a Type
45 I school district. It would prohibit a person from holding
46 simultaneously an elective county office and an elective municipal

1 office, but it retains the statutory provision allowing a member of the
2 Legislature to hold an appointed county or municipal government
3 position.

4 The bill permits any person who, on the date it takes effect, holds
5 more than one of the elective offices to which its provisions apply to
6 continue to hold those offices as long as service in the offices is
7 continuous. It also provides that, in the case of members of the
8 Legislature, the election or selection of a member of one House to
9 serve in the other House shall be deemed as continuous service.

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14 Prohibits any person from simultaneously holding two or more State,
15 county, municipal or school district elective offices, or one such office
16 and membership on the board of education of a Type I school district.