SYNOPSIS
Changes deadline for filing petitions for direct nomination by petition; prohibits primary election loser from running as independent in following general election; prohibits independent candidacy under certain circumstances.

CURRENT VERSION OF TEXT
As introduced.
AN ACT changing the eligibility and deadline for filing certain petitions
of nomination and amending R.S.19:13-4, R.S.19:13-8 and

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

1. R.S.19:13-4 is amended to read as follows:

19:13-4. Such petition shall set forth the names, places of residence
and post-office addresses of the candidates for the offices to be filled,
the title of the office for which each candidate is named, that the
petitioners are legally qualified to vote for such candidates and pledge
themselves to support and vote for the persons named in such petition
and that they have not signed any other petition of nomination for the
primary or for the general election for such office.

In the case of a petition or petitions nominating electors of
president and vice president of the United States, the names of the
candidates for president and vice president for whom such electors are
to vote may be included in the petition or petitions, but the petition or
petitions shall not include the names of any candidates for president or
vice president who have been nominated at a convention of a political
party, as defined by this title.

The petition shall also state in not more than three words the
designation of the party or principles which the candidates therein
named represent, but such designation shall not contain the designation
name, derivative, or any part thereof as a noun or an adjective of any
political party entitled to participate in the primary election.

The petition shall also include the request that the names of the
candidates and their designations of party or principles be printed upon
the ballots to be used at the ensuing general election.

No such petition shall undertake to nominate any candidate who
has: (1) [has] accepted the nomination for the primary for such
position; (2) voted in the immediately preceding primary election for
the general election; (3) been a member of a political party at any time
after the immediately preceding primary election for the general
election; or (4) unsuccessfully sought the nomination of a political
party to such position in the primary election.

Each petition shall be arranged to contain double spacing between
the signature lines of the petition, so that each signer thereof is
afforded sufficient space to provide his or her printed name, address
and signature.

Any form of a petition of nomination, other than petitions for
federal office, which is provided to candidates by the Secretary of

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.
State, the county clerk, or the municipal clerk shall contain the following notice: "Notice: All candidates are required by law to comply with the provisions of the 'New Jersey Campaign Contributions and Expenditures Reporting Act.' For further information, please call (insert phone number of the Election Law Enforcement Commission)."

(cf: P.L.1994, c.77, s.5)

2. R.S.19:13-8 is amended to read as follows:

19:13-8. A candidate nominated for an office in a petition shall manifest his acceptance of such nomination by a written acceptance thereof, signed by his hand, upon or annexed to such petition, to which shall be annexed the oath of allegiance prescribed in section 41:1-1 of the Revised Statutes duly taken and subscribed by him before an officer authorized to take oaths in this State, or if the same person be named for the same office in more than one petition, annexed to one of such petitions. Such acceptance shall certify that the candidate is a resident of and a legal voter in the jurisdiction of the office for which the nomination is made. No candidate so named shall sign such acceptance if he has: (1) signed an acceptance for the primary nomination or any other petition of nomination under this chapter for such office; (2) voted in the immediately preceding primary election to the general election; (3) been a member of a political party at any time after the immediately preceding primary election for the general election; or (4) unsuccessfully sought the nomination of a political party to such position in the primary election.

(cf: P.L.1949, c.24, s.2)

3. R.S.19:13-9 is amended to read as follows:

19:13-9. All such petitions and acceptances thereof shall be filed with the officer or officers to whom they are addressed before 4:00 p.m. of the 54th day next preceding the day of the holding of the primary election for the general election in this Title provided. All petitions when filed shall be open under proper regulations for public inspection. Notwithstanding the above provision, all petitions and acceptances thereof nominating electors of candidates for President and Vice President of the United States, which candidates have not been nominated at a convention of a political party as defined by this Title, shall be filed with the Secretary of State before 4:00 p.m. of the 99th day preceding the general election in this Title provided. All petitions when filed shall be opened under proper regulations for public inspection.

The officer or officers shall transmit to the Election Law Enforcement Commission the names of all candidates, other than candidates for federal office, nominated by petition and any other information required by the commission in the form and manner
prescribed by the commission and shall notify the commission immediately upon the withdrawal of a petition of nomination. (cf: P.L.1989, c.70, s.1)

4. This act shall take effect January 1 following the date of enactment.

STATEMENT

This bill changes, from the 54th day prior to the day of the primary election to the day of the primary election, the deadline for the filing of petitions for the direct nomination by petition of candidates for public office.

The bill at the same time prohibits a person from either filing petitions of nomination or signing an acceptance of nomination to run as an independent candidate if that person voted in the immediately preceding primary election to the general election or was a member of a political party at any time after the immediately preceding primary election for the general election.

The bill also prohibits a person who unsuccessfully sought the nomination of a political party in a primary election from either filing petitions of nomination or signing an acceptance of nomination to run as an independent candidate for that office in the following general election.

The change of the filing deadline is the result of the U.S. Court of Appeals’ recent decision in Council of Alternative Political Parties v. Hooks, 121 F.3rd 876 (3rd Cir. 1997), in which the court found that requiring nominating petitions to be filed nearly seven months prior to the general election burdened the plaintiffs’ associational rights by depriving alternative parties and their supporters the ability to react to events occurring after the deadline. The deadline also required candidates to collect signatures when the election was remote and voters generally uninterested. In addition, because the early deadline made it more difficult to place candidates on the ballot, the court found that it hindered the ability of alternative political parties to achieve major party status.

Requiring independent candidates to file on the day of the primary, instead of 54 days prior thereto, protects those candidate’s associational rights while allowing the state to maintain its recognized and compelling interest in protecting the integrity of the various routes to the ballot. Changing the date would allow alternative political parties the opportunity to recruit and nominate candidates over a longer period, react to events for almost two additional months and propose alternatives if disaffection with the potential nominees of the major parties emerges. It would also allow them to gather signatures
at a time when the election is generating increased interest, thus
strengthening their chances of getting on the ballot and achieving
major party status. Finally, it would simultaneously identify all
candidates for a particular office, both party-affiliated and
independent, placing them on an equal footing before the electorate.

Selecting the day of the primary election would also limit the ability
of a person who unsuccessfully sought office as a candidate in that
primary election from running for that office as an independent in the
following general election and protecting the parties from "intraparty
feuding." The constitutionality of prohibiting a defeated primary
candidate from running as an independent has been affirmed by the
United States Supreme Court in Storer v. Brown, 94 S.Ct. 1274
(1974), since this type of "sore-loser" provision furthers a state's
interest in stabilizing its political system by guarding against splintered
parties and unrestrained factionalism and in protecting the routes to
the ballot.

Finally, prohibiting a person from running as an independent if that
person voted in the immediately preceding primary election or was a
member of a political party at any time after the immediately preceding
primary election would broaden the current filing prohibitions to
preclude independent candidacies by persons formerly affiliated with
a political party for the year preceding the primary election. The
constitutionality of this provision, known popularly as a "disaffiliation
provision," was also upheld by the United States Supreme Court in
Storer. The court found that the one-year disaffiliation provision of
a California law furthered that state's interest in the stability of its
political system and that interest was not only permissible but
compelling and outweighed the interest the candidate and his
supporters may have in making a late, rather than an early, decision to
seek independent ballot status.