

**P U B L I C   H E A R I N G**

before

**ASSEMBLY STATE GOVERNMENT COMMITTEE**

**ASSEMBLY CONCURRENT RESOLUTION-40**

**(Amends the State Constitution to Eliminate the Need  
to Hold Special Elections to Fill Legislative Vacancies)**

February 8, 1988  
Room 368  
State House Annex  
Trenton, New Jersey

**MEMBERS OF COMMITTEE PRESENT:**

Assemblyman Robert J. Martin, Chairman  
Assemblyman William E. Schluter  
Assemblyman Anthony J. Cimino

**ALSO PRESENT:**

Donald S. Margeson  
Office of Legislative Services  
Aide, Assembly State Government Committee

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Government Director  
League of Women Voters of New Jersey

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District 39

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ASSEMBLYMAN ROBERT J. MARTIN (Chairman): We want to consider Assemblyman Rooney's ACR-40. At this point in time, we will be receptive to anybody who wishes to speak on that legislation which, as I said, is a Constitutional Amendment to provide a new means for selecting people to fill vacancies in the State Legislature.

Is there anyone here who wishes to speak on that matter? Okay, please come forward. Maybe while we're doing that, just for purposes of the record you can read the Committee roll call.

MR. MARGESON: Chairman Martin?

ASSEMBLYMAN MARTIN: Here.

MR. MARGESON: Assemblywoman Crecco? (no response)  
Assemblyman Schluter?

ASSEMBLYMAN SCHLUTER: Here.

MR. MARGESON: Assemblyman Charles? (no response)  
Assemblyman Cimino?

ASSEMBLYMAN CIMINO: Here.

ASSEMBLYMAN MARTIN: Okay. Please.

D O R I S   W E I S B E R G: I'm Doris Weisberg and I am the Government Director for the League of Women Voters in New Jersey. With me is Marie Curtis who I guess everybody knows is the Legislative Vice President for the League of Women Voters.

What we're going to do is stall here a bit. We have recommended to the League of Women Voters of New Jersey to support this bill. But their board meeting is on Wednesday; this coming Wednesday. We have no reason to feel that our recommendations will not be accepted, because we have been standing back for many years to support this position. However, it is something we do have to go through.

So we would like to just have testimony -- give testimony on the fact that we truly support the concept and the ideas embodied in this bill.

ASSEMBLYMAN MARTIN: Well, even if the League hasn't taken an official position, you as a person of free society can espouse your own points of view, right?

MS. WEISBERG: Well, we're doing-- What we want to say is the League is truly a grass roots organization, and comes to a position only after an issue has been studied and a consensus position reached by a majority of local Leagues responding. In this light, I would like to make some general remarks on the League position. The bill in front of us today will be brought before the State board of the League of Women Voters of New Jersey on February 10 -- Wednesday. Unfortunately, this bill was not received by us in time for consideration in January.

We do support, by constitutional amendment, a process of temporary appointment. The interim appointment should be from the same political party as the previous holder, and hold office until the next general election when a special vote would determine who would serve the remainder of the term. League members are most concerned with filling vacancies promptly. The more democratic process of special elections has some disadvantages that must be considered, specifically, the length of time districts would be without representation and the cost.

Special elections currently cost over one hundred thousand dollars, and we all know, when one or more vacancy occurs, the amount becomes almost prohibitive. We have no specific recommendations at this time, but will continue to follow the legislation in our hope to finally resolve this problem in a fair and equitable way.

M A R I E C U R T I S: (speaking from audience, portions of statement inaudible) I'd just like to reiterate what Doris said. Our basic-- We -- our consensus positions do delineate that we would like faster filling of the vacancies, because we do feel that under-representation is a disadvantage to those citizens involved.

We are concerned with fiscal soundness, and the exorbitant costs of these special elections. And the relatively poor turnout has been a concern. So, for these and many other reasons -- (a few words inaudible) -- we are relatively convinced. We just can't go on the record and say right now, at this point in time, the League of Women Voters supports the legislation. But I firmly believe that 48 hours from now we'll be able to say that.

MS. WEISBERG: We did this, I think once before only, with ACR-77. We don't do this unless, you know, we're pretty sure that we're going to come out winners on Wednesday.

ASSEMBLYMAN MARTIN: Well, the League did support this whole-heartedly last session.

MS. WEISBERG: Yes, in past. Yes we have.

ASSEMBLYMAN MARTIN: Thank you very much. Mr. Rooney.

ASSEMBLYMAN SCHLUTER: Could I question the League?

ASSEMBLYMAN MARTIN: Sure. I'm sorry.

ASSEMBLYMAN SCHLUTER: I note that you talk about the League being in favor of a democratic process for special elections, which means election. When special elections have turnouts of under 7% across-the-board -- mine last year had 3.8% -- don't you agree that this is not democratic and is really--

MS. WEISBERG: Well, that's what we said.

ASSEMBLYMAN SCHLUTER: And the antithesis of a full participation election, and that your support of this bill would avoid that kind of a situation?

MS. WEISBERG: Absolutely. It appears usually to people that to endorse election is the best way. As I said, definitely we feel that the advantages outweigh the special elections. Mostly poor voter turnout is just-- As you say, the majority are not electing by any stretch of the imagination.

MS. CURTIS: And I understand, Assemblyman, you also had a bill on this. We have not, because of the backup of

Legislative Services, we have not been able to get our hands on either of the bills until last week, and we went down and got copies of two inaccurate bills; we finally got the right one. We have one copy which we guard jealously. And we do not have a copy of your bill, unfortunately. When we do, there is nothing to say that we can't look at that and at that point make a decision between the two. But there was no comparison that has been done at this point by the League.

ASSEMBLYMAN SCHLUTER: Let me make myself clear, if I can, that I voted for Mr. Rooney's bill out of Committee. I would be very happy with that, and I would consider my position sort of a backup, if for example, the Constitutional Amendment was not approved by the voters. But only if.

ASSEMBLYMAN MARTIN: One of the things with Mr. Schluter's bill was that it did not require a constitutional amendment. So, if in fact, it didn't pass, he viewed it as something preferable to what we presently have.

MS. CURTIS: Yeah, I suspect that we might also go along with that thinking. But again, we have to get a copy of it.

MS. WEISBERG: We have to see it.

A S S E M B L Y M A N J O H N E. R O O N E Y: I would like to also thank the League for their position. This has been five years that this bill has been in as ACR-33, ACR-78, ACR-40 now. So this is basically three terms that the bill has been in, and all through that time, I've talked to the League and, actually as a dues paying member of the League of Women Voters, I've discussed it at the various meetings that we've gone to. I appreciate their support of the bill. We have to change the way the system is today. We've already spent over \$3 million in the special elections just since 1982. So, it's a waste of money, it's changed only one election out of 27 or 28, and that was, I guess, Senator Gormley's election. The only one that's changed. The others have all been exactly the



way they were -- the same party took the position that was vacant.

This would again leave it to the voters. This Constitutional referendum goes on the ballot this November, and it's up to the voters to decide whether they want the special election or not. So, again it's a democratic choice having the voters change the Constitution.

So, this is the purpose of the bill, and I appreciate your support.

MS. CURTIS: I must mention also, that basically the positions and testimony that Doris gave you today were brought directly through testimony we gave in 1973. That was before we got into this whole thing.

ASSEMBLYMAN ROONEY: That was before this.

MS. CURTIS: Which looked good on the surface at the time, also.

MS. WEISBERG: I was crawling around and I found 1973 testimony. The same thing.

ASSEMBLYMAN ROONEY: It was the results of Abscam. That's why the vacancies occurred at that time.

ASSEMBLYMAN SCHLUTER: Watergate.

ASSEMBLYMAN ROONEY: No, it was Abscam.

ASSEMBLYMAN MARTIN: Is there anyone else who is here to speak on the ACR? (no response) Well, we thank the League of Women Voters, we thank the sponsor of the legislation Assemblyman Rooney, and we will conclude this public hearing, and convene in approximately eight minutes for the regular State Government Committee meeting. Thank you.

**(HEARING CONCLUDED)**



# ASSEMBLY CONCURRENT RESOLUTION No. 40

## STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1988 SESSION

By Assemblyman ROONEY

1 A **CONCURRENT RESOLUTION** proposing to amend Article IV,  
Section IV, paragraph 1 of the Constitution of the State of  
3 New Jersey.

5  
BE IT RESOLVED by the General Assembly of the State of  
7 New Jersey (the Senate concurring):

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

### 11 PROPOSED AMENDMENT

13 Amend Article IV, Section IV, paragraph 1 of the Constitution  
to read as follows:

15 1. Any vacancy in the Legislature occasioned [by death,  
resignation or] otherwise than by expiration of term shall be  
17 filled by election for the unexpired term only[. as may be  
provided by law] at the next general election occurring not less  
19 than 51 days after the occurrence of the vacancy, except that  
21 no vacancy shall be filled at the general election which  
immediately precedes the expiration of the term in which the  
23 vacancy occurs. For the interim period pending the election and  
qualification of a successor to fill the vacancy, or for the  
25 remainder of the term in the case of a vacancy occurring which  
cannot be filled pursuant to the terms of this paragraph at a  
27 general election, the vacancy shall be filled within 35 days by  
the members of the county committee of the political party of  
which the incumbent was the nominee from the municipalities or

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.



1 districts or units thereof which comprise the legislative  
2 district. [Each house shall direct a writ of election to fill any  
3 vacancy in its membership; but if the vacancy shall occur during  
4 a recess of the Legislature, the writ may be issued by the  
5 Governor, as may be provided by law.]

6  
7 2. When this proposed amendment to the Constitution is  
8 finally agreed to, pursuant to Article IX, paragraph 1 of the  
9 Constitution, it shall be submitted to the people at the next  
10 general election occurring more than three months after such  
11 final agreement and shall be published at least once in at least  
12 one newspaper of each county designated by the President of the  
13 Senate and the Speaker of the General Assembly and the  
14 Secretary of State, not less than three months prior to the  
15 general election.

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

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

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

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

28 b. In every municipality the following question:



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	YES.	<p><b>FILLING VACANCIES IN THE LEGISLATURE</b></p> <p>Shall the amendment of Article IV, Section IV, paragraph I of the Constitution of the State of New Jersey, as agreed to by the Legislature, requiring that a vacancy in the Legislature be filled within 35 days by appointment by the members of the county committee of the political party of which the incumbent was the nominee from the municipalities or districts or units thereof which comprise the legislative district and providing that the appointee shall serve until the election of a successor to fill the vacancy at the next general election occurring not less than 51 days after the occurrence of the vacancy, or until the end of the unexpired term of office if the next general election so occurring immediately precedes the expiration of the term, be adopted?</p>
	NO.	<p><b>INTERPRETIVE STATEMENT</b></p> <p>This amendment would require that a vacancy in the Legislature be filled within 35 days by appointment by the members of the county committee of the political party of which the incumbent was the nominee from the municipalities or districts or units thereof which comprise the legislative district and providing that the appointee shall serve until the election of a successor to fill the vacancy at the next general election occurring not less than 51 days after the occurrence of the vacancy, or until the end of the unexpired term of office if the next general election so occurring immediately precedes the expiration of the term.</p>





The Constitution currently requires that any vacancy occasioned by death, resignation or otherwise shall be filled by election, with no requirement that election be held at a general election. Under the resolution, a vacancy-filling election may be held only at the time of the next general election occurring at least 51 days following the occurrence of the vacancy, and if that is the general election which immediately precedes the end of the term, the vacancy will not be filled by election at all. That portion of a term not filled by election (that is, during the interim period between the occurrence of the vacancy and either the general election at which it is filled or the expiration of the term, as appropriate) will be filled through appointment by those members of the county committee of the vacating incumbent's political party who represent portions of the legislative districts in which the vacancy has occurred.

## Legislature

Amends the Constitution to establish a procedure for the filling of legislative vacancies.

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ASSEMBLY STATE GOVERNMENT COMMITTEE  
STATEMENT TO  
ASSEMBLY CONCURRENT RESOLUTION No. 40

STATE OF NEW JERSEY

DATED: JANUARY 28, 1988

The Assembly State Government Committee reports favorably Assembly Concurrent Resolution, No. 40.

This concurrent resolution proposes an amendment to the State Constitution to revise its provisions regarding the filling of vacancies in the membership of the Legislature.

The Constitution currently requires that any vacancy occasioned by death, resignation or otherwise shall be filled by election, but does not require that the election be held at a general election. Under the resolution, a vacancy-filling election shall be held only at the time of the next general election occurring at least 51 days following the occurrence of the vacancy, and if that general election immediately precedes the end of the term of the office vacated, the vacancy will not be filled by election at all. That portion of a term not filled by election (that is, during the interim period between the occurrence of the vacancy and either the general election at which it is filled or the expiration of the term, as appropriate) will be filled through appointment by those members of the county committee of the vacating incumbent's political party who represent the election districts included in the legislative district in which the vacancy has occurred.

This concurrent resolution was pre-filed for introduction in the 1988 session pending technical review. As reported, the resolution includes the changes required by technical review, which has been performed.

