

ACTS
OF THE
Second Annual Session
OF THE
Two Hundred and Eleventh Legislature
OF THE
STATE OF NEW JERSEY



2005

New Jersey State Library

AMENDMENTS
ADOPTED IN 2005
TO THE 1947 CONSTITUTION

(2579)

Amendments Adopted in 2005 to the 1947 Constitution

ARTICLE II, SECTION I, PARAGRAPH 1

Amend Article II, Section I, paragraph 1 to read as follows:

1. General elections shall be held annually on the first Tuesday after the first Monday in November; but the time of holding such elections may be altered by law. The Governor, Lieutenant Governor, and members of the Legislature shall be chosen at general elections. Local elective officers shall be chosen at general elections or at such other times as shall be provided by law.

Approved November 8, 2005.
Effective January 17, 2006.

ARTICLE IV, SECTION V, PARAGRAPH 1

Amend Article IV, Section V, paragraph 1 to read as follows:

1. No member of the Senate or General Assembly, during the term for which the member shall have been elected, shall be nominated, elected or appointed to any State civil office or position, of profit, which shall have been created by law, or the emoluments whereof shall have been increased by law, during such term. The provisions of this paragraph shall not prohibit the election of any person as Governor, as Lieutenant Governor, or as a member of the Senate or General Assembly.

Approved November 8, 2005.
Effective January 17, 2006.

ARTICLE V, SECTION I, PARAGRAPHS 2 - 10

Amend Article V, Section I, paragraphs 2, 3, 4, 5, 6, 7, 8, 9, and 10 to read as follows:

2. The Governor shall be not less than thirty years of age, and shall have been for at least twenty years a citizen of the United States, and a resident of this State seven years next before election, unless the Governor shall have been absent during that time on the public business of the United States or of this State. A person shall be eligible for the office of Lieutenant Governor only if eligible under this Constitution for the office of Governor.

3. No member of Congress or person holding any office or position, of profit, under this State or the United States shall be Governor or Lieutenant Governor. If the Governor or Lieutenant Governor or person administering the office of Governor shall accept any other office or position, of profit, under this State or the United States, the office of Governor or Lieutenant Governor, as the case may be, shall thereby be vacated. No Governor or Lieutenant Governor shall be elected by the Legislature to any office during the term for which the person shall have been elected Governor or Lieutenant Governor.

4. The Governor and Lieutenant Governor shall be elected conjointly and for concurrent terms by the legally qualified voters of this State, and the manner of election shall require each voter to cast a single vote for both offices. The candidate of each political party for election to the office of Lieutenant Governor shall be selected by the candidate of that party nominated for election to the office of Governor. The selection of the candidate for election to the office of Lieutenant Governor shall be made within 30 days following the nomination of the candidate for election to the office of Governor. A person shall not seek election to both offices simultaneously. The joint candidates receiving the greatest number of votes shall be elected; but if two or more joint candidacies shall be equal and greatest in votes, one set of joint candidates shall be elected by the vote of a majority of all the members of both houses in joint meeting at the regular legislative session next following the election for Governor and Lieutenant Governor by the people. Contested elections for the offices of Governor and Lieutenant Governor shall be determined in such manner as may be provided by law.

5. The term of office of the Governor and of the Lieutenant Governor shall be four years, beginning at noon of the third Tuesday in January next following their election, and ending at noon of the third Tuesday in January four years thereafter. No person who has been elected Governor for two successive terms, including an unexpired term, shall again be eligible for that office until the third

Tuesday in January of the fourth year following the expiration of the second successive term.

6. In the event of a vacancy in the office of Governor resulting from the death, resignation or removal of a Governor in office, or the death of a Governor-elect, or from any other cause, the Lieutenant Governor shall become Governor, until a new Governor is elected and qualifies.

In the event of simultaneous vacancies in both the offices of Governor and Lieutenant Governor resulting from any cause, the President of the Senate shall become Governor until a new Governor or Lieutenant Governor is elected and qualifies. In the event that there is a vacancy in the office of Senate President, or the Senate President declines to become Governor, then the Speaker of the General Assembly shall become Governor until a new Governor or Lieutenant Governor is elected and qualifies. In the event that there is a vacancy in the office of Speaker of the General Assembly, or if the Speaker declines to become Governor, then the functions, powers, duties and emoluments of the office shall devolve for the time being upon such officers and in the order of succession as may be provided by law, until a new Governor or Lieutenant Governor is elected and qualifies.

7. In the event of the failure of the Governor-elect to qualify, or of the absence from the State of a Governor in office, or the Governor's inability to discharge the duties of the office, or the Governor's impeachment, the functions, powers, duties and emoluments of the office shall devolve upon the Lieutenant Governor, until the Governor-elect qualifies, or the Governor in office returns to the State, or is no longer unable to discharge the duties of the office, or is acquitted, as the case may be, or until a new Governor is elected and qualifies. In the event that the Lieutenant Governor in office is absent from the State, or is unable to discharge the duties of the office, or is impeached, or if the Lieutenant Governor-elect fails to qualify, or if there is a vacancy in the office of Lieutenant Governor, the functions, powers, duties, and emoluments of the office of Governor shall devolve upon the President of the Senate. In the event there is a vacancy in the office of the President of the Senate, or of the Senate President's absence from the State, inability to discharge the duties of the office, or impeachment, then such functions, powers, duties, and emoluments shall devolve upon the Speaker of the General Assembly. In the event there is a vacancy in the office of Speaker of the General Assembly, or of the Speaker's absence from the State, inability to discharge the duties of the office,

or impeachment, then such functions, powers, duties, and emoluments shall devolve upon such officers and in the order of succession as may be provided by law. The functions, powers, duties, and emoluments of the office of Governor shall devolve upon the President of the Senate, the Speaker of the General Assembly or another officer, as the case may be, until the Governor-elect or Lieutenant Governor-elect qualifies, or the Governor or Lieutenant Governor in office returns to the State, or is no longer unable to discharge the duties of the office, or is acquitted, or until a new Lieutenant Governor is appointed, as the case may be, or a new Governor or Lieutenant Governor is elected and qualifies.

8. Whenever a Governor-elect or Lieutenant Governor-elect shall have failed to qualify within six months after the beginning of the term of office, or whenever for a period of six months a Governor or Lieutenant Governor in office, or person administering the office, shall have remained continuously absent from the State, or shall have been continuously unable to discharge the duties of the office by reason of mental or physical disability, the office shall be deemed vacant. Such vacancy shall be determined by the Supreme Court upon presentment to it of a concurrent resolution declaring the ground of the vacancy, adopted by a vote of two-thirds of all the members of each house of the Legislature, and upon notice, hearing before the Court and proof of the existence of the vacancy.

9. In the event of a vacancy in the office of Lieutenant Governor resulting from the death, resignation or removal of a Lieutenant Governor in office or the death of a Lieutenant Governor-elect or from any other cause, the Governor shall appoint a Lieutenant Governor within forty-five days of the occurrence of the vacancy to fill the unexpired term.

If a Lieutenant Governor becomes Governor, or in the event of simultaneous vacancies in the offices of Governor and Lieutenant Governor, a Governor and a Lieutenant Governor shall be elected to fill the unexpired terms of both offices at the next general election, unless the assumption of the office of Governor by the Lieutenant Governor, or the vacancies, as the case may be, occur within sixty days immediately preceding a general election, in which case they shall be elected at the second succeeding general election. No election to fill the unexpired terms shall be held in any year in which a Governor and Lieutenant Governor are to be elected for full terms. A Governor and Lieutenant Governor elected for unexpired terms shall assume their offices immediately upon their election.

10. a. The Governor and the Lieutenant Governor shall each receive for services a salary, which shall be neither increased nor diminished during the period for which the Governor or Lieutenant Governor shall have been elected or appointed.

b. The Governor shall appoint the Lieutenant Governor to serve as the head of a principal department or other executive or administrative agency of State government, or delegate to the Lieutenant Governor duties of the office of Governor, or both. The Governor shall not appoint the Lieutenant Governor to serve as Attorney General. The Lieutenant Governor shall in addition perform such other duties as may be provided by law.

Approved November 8, 2005.
Effective January 17, 2006.

ARTICLE V, SECTION IV, PARAGRAPHS 2-4

Amend Article V, Section IV, paragraphs 2, 3 and 4 to read as follows:

2. Each principal department shall be under the supervision of the Governor. The head of each principal department shall be a single executive unless otherwise provided by law. Such single executives shall be nominated and appointed by the Governor, with the advice and consent of the Senate, to serve at the pleasure of the Governor during the Governor's term of office and until the appointment and qualification of their successors, except as herein otherwise provided with respect to the Secretary of State and the Attorney General. The Governor may appoint the Lieutenant Governor to serve as the head of a principal department, without the advice and consent of the Senate, and to serve at the pleasure of the Governor during the Governor's term of office.

3. The Secretary of State and the Attorney General shall be nominated and appointed by the Governor with the advice and consent of the Senate to serve during the term of office of the Governor, except the Governor may appoint the Lieutenant Governor to serve as Secretary of State without the advice and consent of the Senate.

4. Whenever a board, commission or other body shall be the head of a principal department, the members thereof shall be nominated and appointed by the Governor with the advice and

consent of the Senate, and may be removed in the manner provided by law. The Governor may appoint the Lieutenant Governor hereto without the advice and consent of the Senate. Such a board, commission or other body may appoint a principal executive officer when authorized by law, but the appointment shall be subject to the approval of the Governor. Any principal executive officer so appointed shall be removable by the Governor, upon notice and an opportunity to be heard.

Approved November 8, 2005.
Effective January 17, 2006.

ARTICLE XI, SECTION VII

Amend Article XI by the addition of a new Section VII to read as follows:

In the event of a vacancy in the office of Governor resulting from the death, resignation or removal of a Governor in office, or the death of a Governor-elect, or from any other cause, occurring prior to noon on January 19, 2010, the President of the Senate shall become Governor until a new Governor or Lieutenant Governor is elected and qualifies, and in the event of the Senate President's death, resignation or removal prior to becoming Governor, or if the Senate President declines to become Governor, then the Speaker of the General Assembly shall become Governor until a new Governor or Lieutenant Governor is elected and qualifies, and in the event of the Speaker's death, resignation or removal prior to becoming Governor, or if the Speaker declines to become Governor, then the functions, powers, duties and emoluments of the office shall devolve for the time being upon such officers and in such order of succession as may be provided by law until a new Governor or Lieutenant Governor is elected and qualifies. When the President or Speaker becomes Governor pursuant to this section, the President's or Speaker's seat in the Legislature and leadership position shall become vacant.

In the event of a vacancy in the office of Governor occurring prior to noon on January 19, 2010, a Governor shall be elected to fill the unexpired term at the general election next succeeding the vacancy, unless the vacancy shall occur within sixty days immediately preceding a general election, in which case the Governor shall be elected at the second succeeding general election; but no election to fill an unexpired term shall be held in calendar year 2009. A

Governor elected for an unexpired term shall assume office immediately upon election.

Until noon on January 19, 2010, in the event of the failure of the Governor-elect to qualify, or of the absence from the State of a Governor in office, or the Governor's inability to discharge the duties of the office, or the Governor's impeachment, the functions, powers, duties and emoluments of the office shall devolve upon the President of the Senate, for the time being; and in the event of the Senate President's death, resignation, removal, absence, inability or impeachment, then upon the Speaker of the General Assembly, for the time being; and in the event of the Speaker's death, resignation, removal, absence, inability or impeachment, then upon such officers and in such order of succession as may be provided by law; until the Governor-elect qualifies, or the Governor in office returns to the State, or is no longer unable to discharge the duties of the office, or is acquitted, as the case may be, or until a new Governor or Lieutenant Governor is elected and qualifies.

If the President of the Senate is to become Governor or acting Governor pursuant to this section but the Senate has elected more than one President, only one of whom is of the same political party as the Governor, the President who is of that same political party shall become Governor or acting Governor, as appropriate.

If the Speaker of the General Assembly is to become Governor or acting Governor pursuant to this section but the General Assembly has elected more than one Speaker, only one of whom is of the same political party as the Governor, the Speaker who is of that same political party shall become Governor or acting Governor, as appropriate.

Approved November 8, 2005.
Effective January 17, 2006.

ARTICLE VIII, SECTION II, PARAGRAPH 6

Amend Article VIII, Section II, paragraph 6 to read as follows:

6. There shall be credited annually to a special account in the General Fund an amount equivalent to 4% of the revenue annually derived from the tax imposed pursuant to the "Corporation Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), as amended and supplemented, or any other State law of similar effect.

The amount annually credited pursuant to this paragraph shall be dedicated and shall be appropriated from time to time by the

Legislature only for the following purposes: paying or financing costs incurred by the State for the remediation of discharges of hazardous substances, which costs may include performing necessary operation and maintenance activities relating to remedial actions and costs incurred for providing alternative sources of public or private water supplies, when a water supply has been, or is suspected of being, contaminated by a hazardous substance discharge; providing funding, including the provision of loans or grants, for the upgrade, replacement, or closure of underground storage tanks that store or were used to store hazardous substances, and for the costs of remediating any discharge therefrom; providing funding, including the provision of loans or grants, for the costs of the remediation of discharges of hazardous substances, which costs may include costs incurred for providing alternative sources of public or private water supplies, when a water supply has been, or is suspected of being, contaminated by a hazardous substance discharge; for paying or financing the cost of water quality point and nonpoint source pollution monitoring, watershed based water resource planning and management, and nonpoint source pollution prevention projects; and for providing grants for the costs of air pollution control equipment to reduce the levels of particulate matter emissions from diesel-powered engines, and for funding for other measures to reduce human exposure to those emissions.

It shall not be competent for the Legislature, under any pretense whatever, to borrow, appropriate, or use the amount credited to the special account pursuant to this paragraph, or any portion thereof, for any purpose or in any manner other than as enumerated in this paragraph. It shall not be competent for the Legislature, under any pretense whatever, to borrow, appropriate, or use the amount credited to the special account pursuant to this paragraph, or any portion thereof, for the payment of the principal or interest on any general obligation bond that was approved by the voters prior to this paragraph becoming part of this Constitution.

(a) A minimum of one-sixth of the amount annually credited pursuant to this paragraph, or a minimum of an amount equal to \$5,000,000.00 per year, whichever is less, shall be dedicated, and shall be appropriated from time to time by the Legislature, only for paying or financing the cost of water quality point and nonpoint source pollution monitoring, watershed based water resource planning and management, and nonpoint source pollution prevention projects.

(b) A minimum of one-third of the amount annually credited pursuant to this paragraph shall be dedicated, and shall be appropriated from time to time by the Legislature, only for providing

funding, including the provision of loans or grants, for the upgrade, replacement, or closure of underground storage tanks that store or were used to store hazardous substances, and for the costs of remediating any discharge therefrom, and for providing funding, including the provision of loans or grants, for the costs of the remediation of discharges of hazardous substances, which costs may include costs incurred for providing alternative sources of public or private water supplies, when a water supply has been, or is suspected of being, contaminated by a hazardous substance discharge. Of any amount dedicated pursuant to this subparagraph (b) but not expended prior to January 1, 2004, fifty percent of that amount shall be expended on funding for the upgrade, replacement, or closure of underground storage tanks that store or were used to store hazardous substances, and for the costs of remediating any discharge therefrom, and fifty percent shall be expended on funding the costs of the remediation of discharges of hazardous substances, including costs incurred for providing alternative sources of public or private water supplies, when a water supply has been, or is suspected of being, contaminated by a hazardous substance discharge.

Commencing January 1, 2004 and ending December 31, 2005, fifty percent of the moneys dedicated pursuant to this subparagraph (b) shall be appropriated for funding the upgrade, replacement, or closure of underground storage tanks that store or were used to store hazardous substances, and for the costs of remediating any discharge therefrom, and fifty percent shall be appropriated for funding the costs of the remediation of discharges of hazardous substances, which costs may include costs incurred for providing alternative sources of public or private water supplies, when a water supply has been, or is suspected of being, contaminated by a hazardous substance discharge.

Commencing January 1, 2006 and ending December 31, 2021, forty percent of the moneys dedicated pursuant to this subparagraph (b) shall be appropriated for funding the upgrade, replacement, or closure of underground storage tanks that store or were used to store hazardous substances, and for the costs of remediating any discharge therefrom, and sixty percent shall be appropriated for funding the costs of the remediation of discharges of hazardous substances, which costs may include costs incurred for providing alternative sources of public or private water supplies, when a water supply has been, or is suspected of being, contaminated by a hazardous substance discharge.

Commencing January 1, 2004, up to \$2,000,000.00 per year, which shall be taken from the amount appropriated pursuant to this subparagraph (b) for the costs of the remediation of discharges of

hazardous substances, may be expended for the costs of a State underground storage tank inspection program, which costs may include the direct but not indirect program administrative costs incurred by the State for the employment of inspectors and a compliance and enforcement staff, and the purchase of vehicles and equipment necessary for the implementation thereof.

All moneys derived from repayments of any loan issued from the amount dedicated pursuant to this subparagraph (b) shall be dedicated, and shall be appropriated from time to time by the Legislature, only for the purposes authorized pursuant to this subparagraph (b). The dedication of moneys derived from loan repayments shall not expire.

Except for moneys that may be expended for the costs of a State underground storage tank inspection program, and except for amounts that may be appropriated from time to time by the Legislature on or after January 1, 2006, but not to exceed \$1,000,000 annually, to administer programs to provide loans and grants for the upgrade, replacement, or closure of underground storage tanks that store or were used to store hazardous substances, no moneys appropriated pursuant to this subparagraph (b) may be expended on any direct or indirect administrative costs of the State or any of its departments, agencies, or authorities.

Commencing January 1, 2006, funding for administrative costs for programs to provide loans and grants for the upgrade, replacement, or closure of underground storage tanks that store or were used to store hazardous substances may be appropriated from time to time by the Legislature from the amount dedicated pursuant to this subparagraph (b) for those purposes in an amount not to exceed \$1,000,000 in any year.

No moneys appropriated pursuant to this subparagraph (b) may be expended on any upgrade, replacement, or closure of any underground storage tank, or for the remediation of any discharge therefrom, for any underground storage tank owned by the State or any of its departments, agencies, or authorities, or for costs incurred by the State for the remediation of discharges of hazardous substances.

Commencing on January 1, 2022, the moneys dedicated pursuant to this subparagraph (b) may be appropriated from time to time by the Legislature: for providing funding, including the provision of loans or grants, for the upgrade, replacement, or closure of underground storage tanks that store or were used to store hazardous substances, and for the costs of remediating any discharge therefrom; for providing funding, including the provision of loans or grants, for the costs of the remediation of discharges of hazardous

substances, which costs may include costs incurred for providing alternative sources of public or private water supplies, when a water supply has been, or is suspected of being, contaminated by a hazardous substance discharge; or for the costs of a State underground storage tank inspection program, in an amount up to \$2,000,000.00 per year.

The Legislature may appropriate after January 1, 2006, an amount not to exceed \$10,000,000, of any of the amounts appropriated in any fiscal year ending before July 1, 2005, made for the purpose of the provision of loans or grants, for the upgrade, replacement, or closure of underground storage tanks that store or were used to store hazardous substances, and for the costs of remediating any discharge therefrom, and not expended for that purpose prior to the end of the fiscal year ending on June 30, 2005, for the purpose set forth in subparagraph (d) of this paragraph.

(c) Commencing January 1, 2006 and ending December 31, 2015, a minimum of thirty-three percent of the amount annually credited pursuant to this paragraph shall be dedicated, and shall be appropriated from time to time by the Legislature, only for paying or financing costs incurred by the State for the remediation of discharges of hazardous substances, which costs may include performing necessary operation and maintenance activities relating to remedial actions and costs incurred for providing alternative sources of public or private water supplies, when a water supply has been, or is suspected of being, contaminated by a hazardous substance discharge. Commencing January 1, 2016, a minimum of one-half of the amount annually credited pursuant to this paragraph shall be dedicated for the purposes of this subparagraph (c). No moneys appropriated pursuant to this subparagraph (c) may be expended for any indirect administrative costs of the State, its departments, agencies, or authorities. No more than nine percent of the moneys annually credited pursuant to this paragraph, which shall be taken from the amount dedicated pursuant to this subparagraph (c), may be expended for any direct program administrative costs of the State, its departments, agencies, or authorities. If the Legislature dedicates for the purposes of this subparagraph (c) any moneys above the minimum that is required to be dedicated pursuant to this subparagraph (c), those moneys may not be expended for any direct or indirect administrative costs of the State, its departments, agencies, or authorities.

(d) Commencing January 1, 2006 and ending December 31, 2015, a minimum of seventeen percent of the amount annually credited pursuant to this paragraph shall be dedicated, and shall be appropriated from time to time by the Legislature, only for providing

grants for the costs of air pollution control equipment to reduce the levels of particulate matter emissions from diesel-powered engines, funding for other measures to reduce human exposure to those emissions, and funding for those program administrative costs as provided in this subparagraph. No more than \$1,150,000 per year of the amount dedicated pursuant to this subparagraph (d) may be expended for program administrative costs of the State, its departments, agencies, or authorities for implementing the provisions of this subparagraph (d), and for regulating particulate matter emissions from diesel-powered engines.

Any amount dedicated and appropriated pursuant to this subparagraph (d) but not expended prior to January 1, 2016 shall be dedicated and may be appropriated from time to time by the Legislature for the purposes authorized in subparagraph (c) of this paragraph.

Approved November 8, 2005.
Effective December 8, 2005.