SPONSOR: Rep. Ramone & Sen. Lavelle
Rep. Hudson

HOUSE OF REPRESENTATIVES
149th GENERAL ASSEMBLY

HOUSE BILL NO. 239
AS AMENDED BY
HOUSE AMENDMENT NO. 1 AS AMENDED BY HOUSE
AMENDMENT NO. 1 TO HOUSE AMENDMENT NO. 1
AND
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 9 OF THE DELAWARE CODE RELATING TO A VACANCY IN THE NEW CASTLE COUNTY OFFICE OF COUNTY EXECUTIVE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 1114, Title 9 of the Delaware Code by making deletions as shown by strikethrough and insertions as shown by underline as follows:

§ 1114. Vacancy in office.

~~Whenever a vacancy occurs in the office of County Executive by reason of death, resignation, removal from office or other cause, the President of the County Council shall serve as County Executive until the latter office is filled as a result of an election. If a vacancy in the office of County Executive occurs more than 30 days prior to the date of a primary election in which county officers are nominated, the vacancy shall be filled for the remainder of the term in the next succeeding general election and the County Executive elected in this manner shall take office on the first Tuesday following such election. If a vacancy in the office of County Executive occurs less than 30 days prior to the date of a primary election in which county officers are nominated, the vacancy shall be filled for the remainder of the term by the President of the County Council. If the President of the County Council becomes County Executive, the President's office as an elected official of the county governing body shall become vacant.~~

(a) If a vacancy occurs in the office of County Executive by reason of death, resignation, removal from office, or other cause, the Governor shall appoint an acting County Executive to serve until the vacancy is filled as a result of an election. The person appointed by the Governor to be acting County Executive shall meet all eligibility requirements to be a candidate for that office.

(b) Whenever a vacancy in the office of County Executive occurs for any reason, within 10 days following the creation of the vacancy, the President of County Council shall deliver to the Department of Elections for New Castle

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County a writ of election reporting the existence of the vacancy and requesting that a special election be scheduled to fill the same.

(c) On the next day after receiving a writ of election, unless the same shall be Saturday, Sunday, or a legal holiday, and then on the next business day following, the Department of Elections for New Castle County shall post a proclamation reciting the writ and appointing a day for holding a special election, at the following locations:

(1) On the outside of the door of the New Castle County Courthouse;

(2) On the internet; and

(3) In at least 5 public places in New Castle County.

(d)(1) If the Department of Elections for New Castle County receives a writ of election reporting the existence of a vacancy in the Office of County Executive then, no more than 45 days after posting said proclamation pursuant to subsection (c) of this section, it shall hold a special election to fill such vacancy; provided, however that:

a. If the special election to fill the vacancy must be scheduled pursuant to this section within the 45 days immediately following another special election, the special election to fill the vacancy shall be held on the forty-fifth day following the previous special election; and

b. If the special election to fill the vacancy must be scheduled pursuant to this section on a Saturday, Sunday or legal holiday, said special election shall be held on the first business day thereafter.

(2) Notwithstanding paragraph (d)(1) of this section:

a. In the year of a general election, if a vacancy occurs in the Office of County Executive on or after June 1 but before August 20 of that year, the special election to fill such vacancy shall be held that year on the day of the general election;

b. In the year of a general election in which the Office of County Executive is not on the general election ballot, if a vacancy occurs in the Office of County Executive on or after August 20 of that year but before the date of the general election, the special election to fill such vacancy shall be held that year on the forty-fifth day following the general election, or within 1 week thereafter.

(e) Any political party eligible to have a candidate listed on a ballot in the most recent general election preceding the creation of the vacancy may select a candidate to be listed on the ballot for the special election. Candidate names must be received by the Department of Elections for New Castle County no more than 10 days following the date on which the Department posts its proclamation reciting the writ of election and appointing a day for holding a special election. The candidate for a political party shall be selected by the county chair of that party, or in the event that a county chair does not exist, then by the party's state chair.

(f) To the greatest extent feasible, the Department of Elections for New Castle County will use the same polling places as used in a general election; provided, however, that the department may require voters from multiple election districts to use a single polling place and, in the event a normal polling place is not available to be used on the day of the special election, may use as polling places buildings which are not normally used as polling places.

(g) The Department of Elections for New Castle County will appoint election officers as necessary to conduct the special election.

(h) Except as provided in this section, special elections conducted to fill a vacancy in the office of County Executive shall be provided for, opened, held, conducted and closed and the result thereof ascertained and certified in the same manner and subject to the same laws, as far as the same may be applicable, as are prescribed for the general election; provided, however, that the provisions of § 4980(b) of Title 15 shall not apply to any special election held pursuant to this section, nor shall that section interfere with the conduct of a special election held pursuant to this section. Ballots for any special election conducted on the date of a general election pursuant to this section shall be merged with the general election ballots for that date and the 2 elections shall be conducted as a single, general election.

(i) The Superior Court for New Castle County, as constituted under article V, § 6 of the Delaware Constitution, shall at 10 a.m. on the second day after a special election conducted in accordance with this section convene and perform its duties prescribed by the Delaware Constitution with reference to the special election, at the same place, with the same powers and in the same manner as for a general election. If the second day after a special election is a Saturday, Sunday or legal holiday, the canvass of the special election shall commence at 10 a.m. on the first business day thereafter.

(j) A candidate elected pursuant to this section shall immediately upon certification of election take office and shall serve until the expiration of the term.

(k) Unless otherwise provided by the laws of this State, all necessary costs and expenses, including the compensation of election officers, incurred in carrying into effect a special election pursuant to this section, except those that have merged with the general election pursuant to subsection (d) of this section, shall be paid by New Castle County.