HOUSE BILL NO. 85

AN ACT PROPOSING AN AMENDMENT TO ARTICLE XV OF THE DELAWARE CONSTITUTION RELATING TO THE RESIGNATION OF ELECTED OFFICERS SEEKING ANOTHER OFFICE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Two-thirds of all members elected to each house thereof concurring therein):

Section 1. Amend Article XV of the Delaware Constitution by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 5A. Resignation of elected officers seeking another office required.

Section 5A. (a) As used in this section:

(1) “Becoming a candidate” means either that an individual or the individual’s political party has taken an action necessary to qualify the individual for nomination or election under the laws of this State.

(2) “Elected officer” means an individual elected to an office of this State, or one of its political subdivisions, to exercise the sovereign power of this State, or one of its political subdivisions.

(b) An elected officer may not be a candidate for another office of this State, or one of its political subdivisions, if the terms of the offices, or any part of the terms of the offices, run concurrently with each other, until the elected officer resigns from the office the elected officer holds.

(1) An elected officer required to resign under this section must submit a written resignation at least 10 days before becoming a candidate for the office the elected officer intends to seek.

(2) The resignation required under this section is irrevocable.

(3) Except for a vacancy in the office of the Lieutenant Governor, the vacancy in an office created by an elected officer’s resignation under this section must be filled at the same general election as the office the elected officer is seeking.

SYNOPSIS

This Act is the first leg of an amendment to the Delaware Constitution requiring an individual elected to an office of this State, or one of its political subdivisions, to resign from the officer's current elected office if the officer seeks to be a candidate for another office of this State, or one of its political subdivisions, if the term of the office sought runs concurrently with the term of the office held.