



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

HOUSE OF REPRESENTATIVES
149th GENERAL ASSEMBLY

HOUSE BILL NO. 239

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:

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

3 § 1114. Vacancy in office.

4 ~~Whenever a vacancy occurs in the office of County Executive by reason of death, resignation, removal from~~
5 ~~office or other cause, the President of the County Council shall serve as County Executive until the latter office is filled~~
6 ~~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~~
7 ~~primary election in which county officers are nominated, the vacancy shall be filled for the remainder of the term in the~~
8 ~~next succeeding general election and the County Executive elected in this manner shall take office on the first Tuesday~~
9 ~~following such election. If a vacancy in the office of County Executive occurs less than 30 days prior to the date of a~~
10 ~~primary election in which county officers are nominated, the vacancy shall be filled for the remainder of the term by the~~
11 ~~President of the County Council. If the President of the County Council becomes County Executive, the President's~~
12 ~~office as an elected official of the county governing body shall become vacant.~~

13 (a) If a vacancy occurs in the office of County Executive by reason of death, resignation, removal from office, or
14 other cause, the County Chief Administrative Officer shall serve as acting County Executive until the vacancy is filled
15 as a result of an election.

16 (b) Whenever a vacancy in the office of County Executive occurs for any reason, within 10 days following the
17 creation of the vacancy, the President of County Council shall deliver to the Department of Elections for New Castle
18 County a writ of election reporting the existence of the vacancy and requesting that a special election be scheduled to
19 fill the same.

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

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

24 (2) On the internet; and

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

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

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

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

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

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

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

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

48 (f) To the greatest extent feasible, the Department of Elections for New Castle County will use the same polling
49 places as used in a general election; provided, however, that the department may require voters from multiple election
50 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
51 the special election, may use as polling places buildings which are not normally used as polling places.

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

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

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

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

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

SYNOPSIS

This bill addresses how a vacancy in the office of New Castle County Executive will be filled. Initially the County Chief Administrative Officer will fill the position. Thereafter a special election shall be held to fill the vacancy for the balance of the term of office. This is the same special election process as applicable to a vacancy in a County Council district.