
Public Hearing

before

SENATE STATE GOVERNMENT COMMITTEE

Senate Concurrent Resolution Nos. 59 & 27

(Proposes amendments to the State Constitution to provide that Senate President, followed by Assembly Speaker, will become Governor rather than acting Governor when vacancy occurs in office of Governor)

LOCATION: State House Annex
Committee Room 7
Trenton, New Jersey

DATE: October 24, 2002
10:00 a.m.

MEMBERS OF COMMITTEE PRESENT:

Senator Garry J. Furnari (Chairman)
Senator Byron M. Baer
Senator Joseph Coniglio
Senator James S. Cafiero
Senator Robert J. Martin



ALSO PRESENT:

Joseph P. Capalbo
Office of Legislative Services
Committee Aide

Jennifer Langer
Senate Democratic
Committee Aide

John Hutchison
Senate Republican
Committee Aide

Hearing Recorded and Transcribed by
The Office of Legislative Services, Public Information Office,
Hearing Unit, State House Annex, CN 068, Trenton, New Jersey

TABLE OF CONTENTS

	<u>Page</u>
Sandra Matsen President The League of Women Voters of New Jersey	2
Michael Ticktin Private citizen	3
John Tomicki Executive Director League of American Families	3

SENATOR GARRY J. FURNARI (Chairman): Would everyone please take your seats. Thank you.

Shall we call the roll for attendance here?

MR. CAPALBO (Committee Aide): Senator Furnari.

SENATOR FURNARI: Here.

MR. CAPALBO: Senator Baer.

SENATOR BAER: Here.

MR. CAPALBO: Senator Coniglio.

SENATOR CONIGLIO: Here.

MR. CAPALBO: Senator Martin.

SENATOR MARTIN: Here.

SENATOR FURNARI: Senator Cafiero and Senator Kavanaugh are here. They don't happen to be sitting in their seats at the moment.

We have what appears to be a long agenda today. So I'm going to ask everyone to -- I know there's many people that want to speak. I'm going to ask everyone to try to be as concise as they can with their testimony. And we -- there are quite a number of discussions that are going on between the senators, both Democrats, Republicans -- that's it, Democrat and Republican. So if we happen to be getting up, that doesn't mean that we're not being attentive.

SENATOR MARTIN: We're listening to the Green Party.
(laughter)

SENATOR FURNARI: So I'd like to begin by calling for a public hearing on the constitutional amendment, an amendment that will be explained in just a moment by the Committee Aide, but, as I understand it,

we've already adopted the bill, and this is a requirement under the Constitution that we hold a public hearing for anyone who would like to speak.

Mr. Capalbo, just briefly describe it.

MR. CAPALBO: Yes. This Concurrent Resolution was previously voted out of the Committee, and we're holding a public hearing now, in conjunction with the constitutional requirement that a hearing be held. And the resolution proposes an amendment to the State Constitution under which the President of the Senate, followed by the Speaker of the General Assembly, would become governor, rather than acting governor, when the office of governor becomes vacant.

MR. FURNARI: Okay. The first person who signed up to speak is Sandra Matsen, from the League of Women Voters.

Thank you. Welcome to our Committee.

S A N D R A M A T S E N: I guess I don't get a red light. (referring to amplification microphone) I have a very loud voice. I don't need a red light.

SENATOR FURNARI: Well, we want to make sure that it gets recorded, and, certainly, onto the Internet. What -- there seems to be --

MS. MATSEN: It's on now.

SENATOR FURNARI: Okay, good.

MS. MATSEN: I'm Sandra Matsen, President of The League of Women Voters of New Jersey. And The League supports Senate Committee Substitute for Senate Concurrent Resolution 59 and 27 and commends the sponsors and the Senate State Government Committee.

Probably the most distinguishing characteristic of our government is its separation of powers, and checks and balances, and this amendment

affirms that separation, and we look forward to supporting the constitutional amendment when it's placed on the ballot.

SENATOR FURNARI: Thank you very much for your testimony.

Next, Michael Ticktin, of -- here we go, from Roosevelt, New Jersey.

MICHAEL TICKTIN: Thank you, Mr. Chairman.

I just wanted to add to the comments made by The League of Women Voters. I'm the author of an article that appeared several years ago addressing this issue. And I commend the Committee and the sponsors for coming forth with this. This is the most direct solution to the problem of separation of powers. It does make other changes in the system, which historically have derailed all efforts at reform, and I really think it has good prospects, and the faster it moves forward, the better for everybody.

SENATOR FURNARI: Thank you very much for your testimony.

And Mr. Tomicki, of the League of American Families.

JOHN TOMICKI: I guess you can hear me. My name is John Tomicki. I'm the Executive Director of the League of American Families. We represent about 100,000 households in the State of New Jersey.

When this came up before the Committee, we did support Senator Lance's constitutional amendment, which did directly handle the question of separation of powers, so that the Senate President, or as the -- if the Speaker were to assume, they would have to give up their Assembly or Senate seat. And that was the correct thing to be done. It should have been done a long time ago.

It's the mergers that we have the concern with, that because of this rather unique situation that was being addressed by Senator Codey and Senator Bennett, regarding the 20-20 tie in the New Jersey Senate, they then stated that it should be the Senate Co-President that would assume the position of governor, would have to be of the political party. We believe that that is not good enough, because you have to look forward to the possibility that a governor could be elected of neither of the majority parties. That could happen, and I think that issue has to be addressed. It has to be looked at.

The only conclusion that we came to, after studying it, was that it was a highly unusual event, that that would occur, that you'd have this 20-20 tie again. But maybe we should just let it go. If there was a 20-20 tie in the Senate, then, in effect, you do not have a Senate President, unless there was some final agreement, within the senators themselves, to say, "Okay, we'll agree with one." But if the Constitution would prevail, and there is no, in my judgment, a Senate President, then it goes to the Speaker. It would be highly unlikely you would have Co-Speakers. That would probably be an unusual circumstance. But we believe it is still, at this stage, flawed in that perspective.

And I don't know how to fix it. We tried to discuss it with Senator Lance. He said he wanted to go along with the merger, and they thought it was, I guess, unlikely that this situation would again attain itself. And I am not so certain, when you're dealing with the Constitution, whether we should try to really think through all the possible contingencies and clean it up in one shot. And I don't think this does it.

SENATOR FURNARI: Senator Martin.

SENATOR MARTIN: I don't know that this fixes the whole issue, but I have been working on drafting a piece of legislation we talked about the last time, when we talked about this, which would, after the year 2010, which seems, perhaps, an infinity away, but it's not so far in legislative years, that we would, the next time that we redistrict, we would create a 41st Senate District, with its accompanying two Assembly members. And what that would do would be to, really, make it unlikely that you could have a 20-20 tie. It would eliminate the possibility of a 20-20 tie. Whether you could somehow still get a tie in terms of voting, I guess that's conceivable, if somebody absolutely refused to participate. But, nevertheless, I think the idea of not having an even number of senators would make sense. And I think it would probably go a long way to resolving this possibility that you would have a co-presidency in the Senate.

So I would hope that in the near future, we might be able to entertain that. It doesn't speak for the years between 2002 and 2011, but it does -- I think it would help a lot on this particular possibility.

SENATOR FURNARI: Thank you, Senator Martin.

Anyone else?

MR. TOMICKI: May I just add on to that, that the minute we go in that direction -- which is worthy to be discussed, if you have a study commission going on. There are some of us, even though we're aware of the U.S. Supreme Court decision on one man-one vote, many of us look forward to the issue of, you have two assemblymen, in effect, running at large, and whether or not there would be a change at some time -- if we're going to look at a whole revision of the electoral process. Instead of having 40 Assembly

districts, you would have 80 Assembly districts. You would, basically, split them in half. And that would be closer to the intent of one person-one vote. I always hate the terminology, by the way, one man-one vote, having four daughters who do vote -- but one person-one vote.

And that's another thing, if we're going to go in that direction, Senator Martin, that's another thing to be looked at. The minute the 41st came out, the reverberation within the political community was quite interesting. But as to where we are now, I would assume it's going to go forward, and our organization will have to be so advised to see what happens over in the Assembly, whether it gets the supermajority -- I presume that will happen here -- but the Assembly, we don't know yet. We haven't polled people over there, and the question of when the people would vote on it -- I'd still like to see if we could work something out over in the Assembly, Senator Martin. We'll try again with Senator Lance and Senator Bennett and Senator Codey.

SENATOR MARTIN: If I may just briefly respond?

In the realm of good government, I think it would make sense to split the Assembly districts. And you don't even need a constitutional amendment, as far as I understand. You can do that by statute. The practical problem is to do it, either by statute or by a constitutional amendment, requires the Assembly to participate in the process, since we do not have initiative and referendum in New Jersey.

Having served in the Assembly, and also having broached it occasionally when I was a State Senator, I am convinced that it would receive virtually no support at all in the Assembly. The Assembly members like

representing the full length and breadth of a legislative district and would not want to see their areas cut in half.

So I do think you could get, possibly, support for creating a 41st Legislative District, with two additional Assembly members. I don't know that that would -- it wouldn't, necessarily, help the Democrats or the Republicans, and it would resolve the tie problem in the Senate. But as far as whether it would be better to have Assembly members not have multimember districts, which I don't think is a good thing, I don't think we can deal with that in my lifetime.

MR. TOMICKI: Thank you, Mr. Chairman.

SENATOR FURNARI: Thank you. Thank you, both. I know we've gone a little bit astray from the topic at hand, but it was a very interesting, intellectual conversation that we have learned to come to expect from Senator Martin and witnesses who appear before us.

Thank you very much, Senator.

Okay, do I have a motion on this? Oh, we don't need a motion on this.

Okay, would anyone else like to be heard with regard to our public hearing today? (no response)

SENATOR BAER: You need a motion that the hearing is over.

SENATOR FURNARI: We'll probably do that in just a minute. What I intend to do is, if anyone else wants to submit any written testimony, we will leave the hearing open for that purpose.

Now, to end the part of the actual hearing itself, I think I need a motion.

SENATOR BAER: So moved.

SENATOR FURNARI: So moved, and seconded. All those in favor, indicate by saying aye. (affirmative responses) All those opposed. (no response) The ayes have it.

Is that sufficient?

MR. CAPALBO: That's fine.

SENATOR FURNARI: Thank you.

(HEARING CONCLUDED)