

1982

VACANCY — MEETING, ALL MEMBERS OF COUNTY CENTRAL COMMITTEE REQUIRED TO FILL VACANCY OCCASIONED BY WITHDRAWAL OF CANDIDATE WHOSE CANDIDACY SUBMITTED TO ELECTORS OF COUNTY—SECTION 4785-94 G. C.

SYLLABUS:

Pursuant to Section 4785-94, General Code, a meeting comprised of all the members of a county central committee is required to fill a vacancy occasioned by the withdrawal of a candidate whose candidacy is submitted to the electors of a county.

Columbus, Ohio, June 30, 1950

Hon. Wray Bevens, Prosecuting Attorney
Pike County, Waverly, Ohio

Dear Sir:

Your request for my opinion reads as follows:

“A person, whom, for the purpose of this letter we shall refer to as ‘A’, filed his nominating petition with the Board of Elections of Pike County, Ohio, for the office of Representative from said county to the Ohio General Assembly. His name was placed on the official ballot and in the Democratic May primary he was nominated as a candidate for said office. On or about May 20th he received from the Board of Elections his Certificate of Nomination. Immediately subsequent thereto he submitted to the Board of Elections his resignation as such candidate and asked

that his name be withdrawn from the ballot for submission to the electors in the general election to be held in November of 1950.

“On the 15th of May, 1950, the Democratic Central Committee of Pike County, Ohio, organized and at that time conferred upon the Executive Committee which it selected, the power to do all things necessary and proper which it could do other than the filling of vacancies on the Executive Committee.

“The question arises under such circumstances, is the Democratic Executive Committee of Pike County, Ohio, authorized to fill the vacancies created by the resignation of ‘A’?

“I shall appreciate your opinion with respect to this problem at the earliest date conveniently possible in order that such vacancy may be filled within the statutory time.”

I assume that “A”, the person referred to in your request, has followed the required procedure set out in Section 4785-93, General Code.

As a candidate for the office of Representative to the Ohio General Assembly “A” is a candidate whose candidacy is submitted to the electors of a county. His withdrawal, therefore, comes within the third paragraph of Section 4785-94, General Code, relative to filling a vacancy occasioned by withdrawal. The third paragraph of Section 4785-94, General Code, reads, in part, as follows:

“If a person nominated in a primary election as a candidate for election at the next general election, whose candidacy is to be submitted to the electors of a county, or a district or subdivision within a county, shall withdraw as such candidate prior to the eightieth day before the day of such general election, the vacancy in the party nomination so created may be filled by the county central committee or a portion of the members thereof, of the political party which made such nomination at said primary election, at a meeting called for such purpose. If the candidate to be selected to fill the vacancy is one whose candidacy will be submitted to the electors of the county, the meeting called to fill such vacancy shall be comprised of all of the members of the county central committee of the proper political party. ***”

“A”, the person in question, has withdrawn prior to the eightieth day before the day of the general election. Section 4785-94, General Code, requires the meeting to fill the vacancy of a county wide candidate to be comprised of all the members of the county central committee and not the executive committee of the central committee. The language of the statute is very specific and mandatory.

In summary and conclusion it is therefore my opinion that pursuant to Section 4785-94, General Code, a meeting comprised of all the members of the county central committee is required to fill a vacancy occasioned by the withdrawal of a candidate whose candidacy is submitted to the electors of a county.

Respectfully,

HERBERT S. DUFFY,
Attorney General.