

By the Committee on Ethics and Elections; and Senators Posey, Smith, Bronson, Lawson, Dyer, Brown-Waite, Constantine, Silver, Sebesta and Jones

313-800A-01

1 A bill to be entitled
2 An act relating to vacancies in office;
3 amending s. 114.01, F.S.; defining the term
4 "qualify for office" for purposes of
5 determining whether a vacancy has occurred;
6 amending s. 114.04, F.S.; requiring certain
7 persons appointed to office to be United States
8 citizens; amending s. 114.05, F.S.; requiring
9 all officials making appointments that are
10 subject to Senate confirmation to follow
11 certain procedures; amending s. 350.031, F.S.;
12 providing for filling certain vacancies on the
13 Public Service Commission; providing an
14 effective date.

15
16 Be It Enacted by the Legislature of the State of Florida:

17
18 Section 1. Paragraph (h) of subsection (1) of section
19 114.01, Florida Statutes, is amended to read:

20 114.01 Office deemed vacant in certain cases.--

21 (1) A vacancy in office shall occur:

22 (h) Upon the failure of a person elected or appointed
23 to office to qualify for office within 30 days from the
24 commencement of the term of office. As used in this paragraph,
25 the term, "qualify for office" means taking and submitting the
26 oath of office, posting any required bond, and meeting all
27 other applicable requirements of law.

28 Section 2. Section 114.04, Florida Statutes, is
29 amended to read:

30 114.04 Filling vacancies.--
31

1 (1) Except as otherwise provided in the State
2 Constitution, the Governor shall fill by appointment any
3 vacancy in a state, district, or county office, other than a
4 member or officer of the Legislature, for the remainder of the
5 term of an appointive office ~~officer~~ and for the remainder of
6 the term of an elective office, if there is less than 28
7 months remaining in the term; otherwise, until the first
8 Tuesday after the first Monday following the next general
9 election. With respect to any office which requires
10 confirmation by the Senate, the person so appointed may hold
11 an ad interim term of office subject to the provisions of s.
12 114.05. Each secretary or division director of a department
13 of the executive branch who is required by law to be appointed
14 by the Governor and confirmed by the Senate shall serve at the
15 pleasure of the Governor, unless otherwise provided by law,
16 and the appointment of such person shall run concurrently with
17 the term of the Governor making the appointment. In the event
18 a Governor is elected to a second term of office pursuant to
19 s. 5, Art. IV of the State Constitution, each secretary or
20 division director so appointed shall be reappointed or, at the
21 discretion of the Governor, replaced by a new appointee.
22 Reappointments to the same office shall be subject to
23 confirmation by the Senate as provided in s. 114.05.

24 (2) Each person appointed to an office requiring
25 confirmation by the Senate, other than an office having solely
26 advisory powers, must be a citizen of the United States.

27 Section 3. Paragraph (a) of subsection (1) of section
28 114.05, Florida Statutes, is amended to read:

29 114.05 Issuance of letter of appointment; confirmation
30 by the Senate; refusal or failure to confirm.--

31

1 (1) When a vacancy in office is filled by appointment
2 which requires confirmation by the Senate:

3 (a) The Governor or other appointing official or
4 authority shall issue and transmit to the Secretary of State
5 for filing a letter of appointment. The letter shall contain
6 the legal authority under which the appointment is made; the
7 proper designation of the office; the full name and address of
8 the appointee; the term of office to which the appointment is
9 made; and the effective date of the appointment, which date
10 shall be on or after the date of recording of the letter of
11 appointment. The Secretary of State shall promptly file the
12 letter and transmit to the appointee an oath of office,
13 questionnaire for executive appointment, and bond form when
14 required. Upon receipt of the questionnaire, oath of office,
15 and bond if required, the Secretary of State shall transmit to
16 the appointee a certificate of appointment, under seal,
17 certifying that the appointment was made of the appointee to
18 the office, for the term indicated in the letter of
19 appointment. The certificate shall also provide that the
20 appointment is subject to confirmation by the Senate at the
21 next regular session of the Legislature following the
22 effective date of the appointment.

23 Section 4. Subsections (5) and (7) of section 350.031,
24 Florida Statutes, are amended to read:

25 350.031 Florida Public Service Commission Nominating
26 Council.--

27 (5) It is the responsibility of the council to
28 nominate to the Governor not fewer than three persons for each
29 vacancy occurring on the Public Service Commission. The
30 council shall submit the recommendations to the Governor by
31 October 1 of those years in which the terms are to begin the

1 following January, or, except as provided in subsection (7),
2 within 60 days after a vacancy occurs for any reason other
3 than the expiration of the term.

4 (7)(a) Each appointment to the Public Service
5 Commission shall be subject to confirmation by the Senate. If
6 the Senate refuses to confirm or rejects the Governor's
7 appointment, the council shall initiate, in accordance with
8 this section, the nominating process within 30 days.

9 (b) If the Senate votes to take no action or fails to
10 consider an appointment during the regular session immediately
11 following the effective date of the appointment, the Governor
12 shall within 45 days after adjournment sine die of the
13 Legislature either:

14 1. Reappoint the original appointee, if eligible under
15 s. 114.05; or

16 2. Appoint one of the other applicants previously
17 nominated to the Governor for that position.

18 Section 5. This act shall take effect upon becoming a
19 law.

20 *****

21
22 SENATE SUMMARY

23 Defines the term "qualify for office" for purposes of
24 determining whether a vacancy in office occurs. Requires
25 certain appointees to public office to be U.S. citizens.
26 Requires all officials making appointments subject to
27 Senate confirmation to follow specific procedures.
28 Provides a process for filling vacancies on the Public
29 Service Commission when the Senate fails to confirm an
30 appointment during a regular session of the Legislature.
31