

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.; describing an ad
7 interim term of office; requiring certain
8 persons appointed to office to be United States
9 citizens and residents of the state; amending
10 s. 114.05, F.S.; requiring all officials making
11 appointments that are subject to Senate
12 confirmation to follow certain procedures;
13 amending s. 350.031, F.S.; providing for
14 filling certain vacancies on the Public Service
15 Commission; providing an effective date.

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17 Be It Enacted by the Legislature of the State of Florida:

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19 Section 1. Paragraph (h) of subsection (1) of section
20 114.01, Florida Statutes, is amended to read:

21 114.01 Office deemed vacant in certain cases.--

22 (1) A vacancy in office shall occur:

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

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

31 114.04 Filling vacancies.--

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. The ad interim term runs from the date of appointment
13 until the end of the next ensuing session of the Legislature,
14 or until confirmation of an appointee for the unexpired
15 portion of the term, whichever occurs first.

16 (2) Each secretary or division director of a
17 department of the executive branch who is required by law to
18 be appointed by the Governor and confirmed by the Senate shall
19 serve at the pleasure of the Governor, unless otherwise
20 provided by law, and the appointment of such person shall run
21 concurrently with the term of the Governor making the
22 appointment. In the event a Governor is elected to a second
23 term of office pursuant to s. 5, Art. IV of the State
24 Constitution, each secretary or division director so appointed
25 shall be reappointed or, at the discretion of the Governor,
26 replaced by a new appointee. Reappointments to the same office
27 shall be subject to confirmation by the Senate as provided in
28 s. 114.05.

29 (2) Each person appointed to an office requiring
30 confirmation by the Senate, other than an office having solely
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1 advisory powers, must be a citizen of the United States and a
2 resident of the state.

3 Section 3. Paragraph (a) of subsection (1) of section
4 114.05, Florida Statutes, is amended to read:

5 114.05 Issuance of letter of appointment; confirmation
6 by the Senate; refusal or failure to confirm.--

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

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

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

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1 350.031 Florida Public Service Commission Nominating
2 Council.--

3 (5) It is the responsibility of the council to
4 nominate to the Governor not fewer than three persons for each
5 vacancy occurring on the Public Service Commission. The
6 council shall submit the recommendations to the Governor by
7 October 1 of those years in which the terms are to begin the
8 following January, or, except as provided in subsection (7),
9 within 60 days after a vacancy occurs for any reason other
10 than the expiration of the term.

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

16 (b) If the Senate votes to take no action or fails to
17 consider an appointment during the regular session immediately
18 following the effective date of the appointment, the Governor
19 shall within 45 days after adjournment sine die of the
20 Legislature either:

21 1. Reappoint the original appointee, if eligible under
22 s. 114.05; or

23 2. Appoint one of the other applicants previously
24 nominated to the Governor for that position.

25 Section 5. This act shall take effect upon becoming a
26 law.