

By Senator Aronberg

27-360-07

1 A bill to be entitled
2 An act relating to elections; amending ss.
3 100.101, 100.111, 100.141, F.S.; providing for
4 special primary elections to fill vacancies in
5 nomination; prescribing procedures with respect
6 thereto; providing a procedure for filling a
7 vacancy in nomination when one occurs later
8 than a specified date or with respect to a
9 candidate of a minor political party; providing
10 for notice; providing an effective date.

11
12 Be It Enacted by the Legislature of the State of Florida:

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14 Section 1. Subsection (5) is added to section 100.101,
15 Florida Statutes, to read:

16 100.101 Special elections and special primary
17 elections.--Except as provided in s. 100.111(2), a special
18 election or special primary election shall be held in the
19 following cases:

20 (5) If a vacancy occurs in nomination.

21 Section 2. Section 100.111, Florida Statutes, is
22 amended to read:

23 100.111 Filling vacancy.--

24 (1)(a) If any vacancy occurs in any office which is
25 required to be filled pursuant to s. 1(f), Art. IV of the
26 State Constitution and the remainder of the term of such
27 office is 28 months or longer, then at the next general
28 election a person shall be elected to fill the unexpired
29 portion of such term, commencing on the first Tuesday after
30 the first Monday following such general election.

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1 (b) If such a vacancy occurs prior to the first day
2 set by law for qualifying for election to office at such
3 general election, any person seeking nomination or election to
4 the unexpired portion of the term shall qualify within the
5 time prescribed by law for qualifying for other offices to be
6 filled by election at such general election.

7 (c) If such a vacancy occurs prior to the primary
8 election but on or after the first day set by law for
9 qualifying, the Secretary of State shall set dates for
10 qualifying for the unexpired portion of the term of such
11 office. Any person seeking nomination or election to the
12 unexpired portion of the term shall qualify within the time
13 set by the Secretary of State. If time does not permit party
14 nominations to be made in conjunction with the primary
15 election, the Governor may call a special primary election to
16 select party nominees for the unexpired portion of such term.

17 (2)(a) If, in any state or county office required to
18 be filled by election, a vacancy occurs during an election
19 year by reason of the incumbent having qualified as a
20 candidate for federal office pursuant to s. 99.061, no special
21 election is required. Any person seeking nomination or
22 election to the office so vacated shall qualify within the
23 time prescribed by s. 99.061 for qualifying for state or
24 county offices to be filled by election.

25 (b) If such a vacancy occurs in an election year other
26 than the one immediately preceding expiration of the present
27 term, the Secretary of State shall notify the supervisor of
28 elections in each county served by the office that a vacancy
29 has been created. Such notice shall be provided to the
30 supervisor of elections not later than the close of the first
31 day set for qualifying for state or county office. The

1 supervisor shall provide public notice of the vacancy in any
2 manner the Secretary of State deems appropriate.

3 (3) Whenever there is a vacancy for which a special
4 election is required pursuant to s. 100.101(1)-(4) ~~s. 100.101~~,
5 the Governor, after consultation with the Secretary of State,
6 shall fix the dates of a special primary election and a
7 special election. Nominees of political parties other than
8 minor political parties shall be chosen under the primary laws
9 of this state in the special primary election to become
10 candidates in the special election. Prior to setting the
11 special election dates, the Governor shall consider any
12 upcoming elections in the jurisdiction where the special
13 election will be held. The dates fixed by the Governor shall
14 be specific days certain and shall not be established by the
15 happening of a condition or stated in the alternative. The
16 dates fixed shall provide a minimum of 2 weeks between each
17 election. If ~~In the event~~ a vacancy occurs in the office of
18 state senator or member of the House of Representatives when
19 the Legislature is in regular legislative session, the minimum
20 times prescribed by this subsection may be waived upon
21 concurrence of the Governor, the Speaker of the House of
22 Representatives, and the President of the Senate. If a vacancy
23 occurs in the office of state senator and no session of the
24 Legislature is scheduled to be held prior to the next general
25 election, the Governor may fix the dates for the special
26 primary election and for the special election to coincide with
27 the dates of the primary election and general election. If a
28 vacancy in office occurs in any district in the state Senate
29 or House of Representatives or in any congressional district,
30 and no session of the Legislature, or session of Congress if
31 the vacancy is in a congressional district, is scheduled to be

1 held during the unexpired portion of the term, the Governor is
2 not required to call a special election to fill such vacancy.

3 (a) The dates for candidates to qualify in such
4 special election or special primary election shall be fixed by
5 the Department of State, and candidates shall qualify not
6 later than noon of the last day so fixed. The dates fixed for
7 qualifying shall allow a minimum of 14 days between the last
8 day of qualifying and the special primary election.

9 (b) The filing of campaign expense statements by
10 candidates in such special elections or special primaries and
11 by committees making contributions or expenditures to
12 influence the results of such special primaries or special
13 elections shall be not later than such dates as shall be fixed
14 by the Department of State, and in fixing such dates the
15 Department of State shall take into consideration and be
16 governed by the practical time limitations.

17 (c) The dates for a candidate to qualify by the
18 petition process pursuant to s. 99.095 in such special primary
19 or special election shall be fixed by the Department of State.
20 In fixing such dates the Department of State shall take into
21 consideration and be governed by the practical time
22 limitations. Any candidate seeking to qualify by the petition
23 process in a special primary election shall obtain 25 percent
24 of the signatures required by s. 99.095.

25 (d) The qualifying fees and party assessments of such
26 candidates as may qualify shall be the same as collected for
27 the same office at the last previous primary for that office.
28 The party assessment shall be paid to the appropriate
29 executive committee of the political party to which the
30 candidate belongs.

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1 (e) Each county canvassing board shall make as speedy
2 a return of the result of such special primary elections and
3 special elections as time will permit, and the Elections
4 Canvassing Commission likewise shall make as speedy a canvass
5 and declaration of the nominees as time will permit.

6 (4)(a) In the event that death, resignation,
7 withdrawal, removal, or any other cause or event should cause
8 a party to have a vacancy in nomination which leaves no
9 candidate for an office from such party, the Governor shall,
10 after conferring with the Secretary of State, call a special
11 primary election to select for such office a nominee of such
12 political party. The dates on which candidates may qualify for
13 such special primary election shall be fixed by the Department
14 of State, and the candidates must qualify no later than noon
15 of the last day so fixed. The filing of campaign expense
16 statements by candidates in special primaries shall be not
17 later than such dates as are fixed by the Department of State.
18 In fixing such dates, the Department of State shall take into
19 consideration and be governed by the practical time
20 limitations. The qualifying fees and party assessment of such
21 candidates as qualify shall be the same as collected for the
22 same office at the last previous primary for that office. Each
23 county canvassing board shall make as speedy a return of the
24 results of such primary as time permits, and the Elections
25 Canvassing Commission shall likewise make as speedy a canvass
26 and declaration of the nominees as time permits.

27 (b) If the vacancy in nomination occurs later than
28 September 15, or if the vacancy in nomination occurs with
29 respect to a candidate of a minor political party that has
30 obtained a position on the ballot, a special election will not
31 be held and the Department of State shall notify the chair of

1 | the appropriate state, district, or county political party
2 | executive committee of such party; and, within 5 days, the
3 | chair shall call a meeting of his or her executive committee
4 | to consider designation of a nominee to fill the vacancy. The
5 | name of any person so designated shall be submitted to the
6 | Department of State within 7 days after notice to the chair in
7 | order that the person designated may have his or her name on
8 | the ballot of the ensuing general election. If the vacancy
9 | occurs less than 21 days prior to the election, the person
10 | designated by the political party will replace the former
11 | party nominee even though ~~name of the new nominee is submitted~~
12 | ~~after the certification of results of the preceding primary~~
13 | ~~election, however, the ballots shall not be changed and the~~
14 | former party nominee's name will appear on the ballot. Any
15 | ballots cast for the former party nominee will be counted for
16 | the person designated by the political party to replace the
17 | former party nominee. If there is no opposition to the party
18 | nominee, the person designated by the political party to
19 | replace the former party nominee will be elected to office at
20 | the general election. For purposes of this paragraph, the term
21 | "district political party executive committee" means the
22 | members of the state executive committee of a political party
23 | from those counties comprising the area involving a district
24 | office.

25 | (c)(b) When, under the circumstances set forth in the
26 | preceding paragraph, vacancies in nomination are required to
27 | be filled by committee nominations, such vacancies shall be
28 | filled by party rule. In any instance in which a nominee is
29 | selected by a committee to fill a vacancy in nomination, such
30 | nominee shall pay the same filing fee and take the same oath
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1 as the nominee would have taken had he or she regularly
2 qualified for election to such office.

3 ~~(d)(e)~~ Any person who, at the close of qualifying as
4 prescribed in ss. 99.061 and 105.031, was qualified for
5 nomination or election to or retention in a public office to
6 be filled at the ensuing general election is prohibited from
7 qualifying as a candidate to fill a vacancy in nomination for
8 any other office to be filled at that general election, even
9 if such person has withdrawn or been eliminated as a candidate
10 for the original office sought. However, this paragraph does
11 not apply to a candidate for the office of Lieutenant Governor
12 who applies to fill a vacancy in nomination for the office of
13 Governor on the same ticket or to a person who has withdrawn
14 or been eliminated as a candidate and who is subsequently
15 designated as a candidate for Lieutenant Governor under s.
16 99.063.

17 (5) In the event of unforeseeable circumstances not
18 contemplated in these general election laws concerning the
19 calling and holding of special primary elections and special
20 elections resulting from court order or other unpredictable
21 circumstances, the Department of State shall have the
22 authority to provide for the conduct of orderly elections.

23 (6) If a vacancy occurs which leaves less than 4 weeks
24 for a candidate seeking to qualify by the petition process
25 pursuant to s. 99.095 to gather signatures for ballot
26 position, the number of signatures required for ballot
27 placement shall be 25 percent of the number of signatures
28 required by s. 99.095.

29 Section 3. Section 100.141, Florida Statutes, is
30 amended to read:
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1 100.141 Notice of special election to fill any vacancy
2 in office or nomination.--

3 (1) Whenever a special election is required to fill
4 any vacancy in office or nomination, the Governor, after
5 consultation with the Secretary of State, shall issue an order
6 declaring on what day the election shall be held and deliver
7 the order to the Department of State.

8 (2) The Department of State shall prepare a notice
9 stating what offices and vacancies are to be filled in the
10 special election, the dates set for the special primary
11 election and the special election, the dates fixed for
12 qualifying for office, the dates fixed for qualifying by the
13 petition process pursuant to s. 99.095, and the dates fixed
14 for filing campaign expense statements.

15 (3) The department shall deliver a copy of such notice
16 to the supervisor of elections of each county in which the
17 special election is to be held. The supervisor shall have the
18 notice published two times in a newspaper of general
19 circulation in the county at least 10 days prior to the first
20 day set for qualifying for office. If such a newspaper is not
21 published within the period set forth, the supervisor shall
22 post at least five copies of the notice in conspicuous places
23 in the county not less than 10 days prior to the first date
24 set for qualifying.

25 Section 4. This act shall take effect upon becoming a
26 law.

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29 SENATE SUMMARY

30 Reinstates the practice of filling a vacancy in
31 nomination by a special election.