

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Judiciary

BILL: SB 460

INTRODUCER: Senator Polsky

SUBJECT: Special Elections

DATE: February 9, 2026

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Cleary</u>	<u>Roberts</u>	<u>EE</u>	Favorable
2.	<u>Davis</u>	<u>Cibula</u>	<u>JU</u>	Pre-meeting
3.	_____	_____	<u>RC</u>	_____

I. Summary:

SB 460 revises the requirements under Florida’s Election Code for the ordering and scheduling of special primary elections and special elections required to fill a vacancy in certain offices by:

- Requiring the Governor, upon a vacancy, to call a special primary election and special election by a statutorily proscribed deadline.
- Requiring the Governor to call and schedule such special primary elections and special elections, after consultation: to the earliest date feasible to hold such elections, to coincide with existing scheduled elections if possible, to schedule such elections no later than a certain number of days from the occurrence of the vacancy, and require a minimum amount of time between the special primary elections and special elections.
- Providing certain people are deemed elected under specific circumstances.
- Providing timeframes for the scheduling of special primary elections and special elections, relating to vacancies involving: offices having certain time remaining on its term of office, legislative offices that become vacant within a certain period before legislative session, and vacancies that occur under Florida’s “Resign to Run Law.”
- Providing qualified electors standing to file petitions with the circuit court, seeking a judicial order to enforce the requirements under the bill on an expedited basis.

The bill takes effect on July 1, 2026.

II. Present Situation:

Florida Election Code: Filling Vacancies by Special Election

The Florida Election Code (“Code”) provides for special elections and special primary elections where vacancies¹ occur in certain offices that cannot be filled by appointment:²

- If no person has been elected at a general election to fill an office that was required to be filled by election at such general election.
- If a vacancy occurs in the office of state senator or member of the state house of representatives.
- If it is necessary to elect presidential electors, by reason of the offices of President and Vice President both having become vacant.
- If a vacancy occurs in the office of a member of the U.S. House of Representatives from Florida .

Under the Code, if a vacancy occurs in any office which is required to be filled pursuant to s. 1(f), Art. IV of the Florida Constitution and the remainder of the term of the office is 28 months or longer, then a person must be elected to fill the unexpired portion of the term at the next general election, beginning on the first Tuesday after the first Monday following the general election.³ If a vacancy occurs prior to the first day set by law for qualifying for election to office at the next general election, any person seeking nomination or election to the unexpired portion of the term must qualify within the time prescribed by law for qualifying for other offices to be filled by election at such general election.⁴ If a vacancy occurs prior to the primary election but on or after the first day set by law for qualifying, the Secretary of State must set dates for qualifying for the unexpired portion of the term of such office.⁵ Any person seeking nomination or election to the unexpired portion of the term must qualify within the time set by the Secretary of State.⁶ If time does not permit party nominations to be made in conjunction with the primary election, the Governor **may** call a special primary election to select party nominees for the unexpired portion of such term.⁷

¹ See Section 3, art X, Fla. Const. (Vacancy in office occurs, “... upon the creation of an office, upon the death, removal from office, or resignation of the incumbent or the incumbent’s succession to another office, unexplained absence for sixty consecutive days, or failure to maintain the residence required when elected or appointed, and upon failure of one elected or appointed to office to qualify within thirty days from the commencement of the term”); s. 114.01(1), F.S. (Office deemed vacant in certain circumstances, “(1) A vacancy in office shall occur: (a) Upon creation of an office. (b) Upon the death of the incumbent officer. (c) Upon removal of the officer from office. (d) Upon the resignation of the officer and acceptance thereof by the Governor. (e) Upon the succession of the officer to another office. (f) Upon the officer’s unexplained absence for 60 consecutive days. (g) Upon the officer’s failure to maintain the residence required of him or her by law. (h) Upon the failure of a person elected or appointed to office to qualify for office within 30 days from the commencement of the term of office. (i) Upon the refusal of the person elected or appointed to accept the office. (j) Upon the conviction of the officer of a felony as defined in s. 10, Art. X of the State Constitution. (k) Upon final adjudication, in this state or in any other state, of the officer to be mentally incompetent. (l) Upon the rendition of a final judgment of a circuit court of this state declaring void the election or appointment of the incumbent to office.”).

² Section 100.101, F.S.

³ Section 100.111(1)(a), F.S.

⁴ Section 100.111(1)(b), F.S.

⁵ Section 100.111(1)(c), F.S.

⁶ *Id.*

⁷ *Id.*

Whenever there is a vacancy for which a special election is required pursuant to s. 100.101, F.S., the Governor, after consultation with the Secretary of State, must call and schedule fixed dates for a special primary election and a special election.⁸ Before setting special election dates, the Governor must consider any upcoming elections in the jurisdiction where the special election will be held.⁹ The Governor must fix specific certain, nonconditional, days, for such special primary elections and special elections.¹⁰ The fixed dates must be at least 2 weeks between each election.¹¹

If a vacancy occurs in the office of state Senator or member of the House of Representative when the Legislature is in regular legislative session, the minimum times required under s. 100.111(2), F.S., may be waived upon the agreement of the Governor, the Speaker of the House of Representatives, and the President of the Senate.¹² If a vacancy occurs in the office of a state Senator and no session of the Legislature is scheduled to be held prior to the next general election, the Governor may fix the dates for the special primary election and for the special election to coincide with the dates of the primary election and general election.¹³ If a vacancy in office occurs in any district in the state Senate or House of Representatives or in any congressional district, and no session of the Legislature, or session of Congress if the vacancy is a congressional district, is scheduled to be held during the unexpired portion of the term, the Governor is not required to call a special election to fill the vacancy.¹⁴ The dates for candidates to qualify in such special election or special primary election must be fixed by the Department of State, and candidates must qualify no later than noon of the last day fixed to qualify.¹⁵ The dates fixed for qualifying must allow a minimum of 14 days between the last day of qualifying and the special primary election.¹⁶

When a special election is required to fill any vacancy in office, the Governor, after consultation with the Secretary of State, must issue an order declaring a special election and the day the election must be held and the Governor must deliver this order to the Department of State.¹⁷ The Department of State is required to prepare a notice stating what offices are to be filled in the special election, the dates set for the special primary election and the special election, the dates fixed for qualifying for office, the dates fixed for qualifying by the petition process pursuant to s. 99.095, F.S., and the date fixed for filing campaign expenses.¹⁸ The Department of State must deliver a copy of the notice to the supervisor of elections of each county in which the special election is to be held.¹⁹

⁸ Section 100.111(2), F.S. (Nominees of political parties shall be chosen under the primary laws of this state in the special primary election to become candidates in the special election).

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ Section 100.111(2)(a), F.S.

¹⁶ *Id.*

¹⁷ Section 100.141(1), F.S.

¹⁸ Section 100.141(2), F.S.

¹⁹ Section 100.141(3), F.S. (The Supervisor of Elections is required to have the notice published two times in a newspaper of general circulation in the county at least 10 days before the first day set for qualifying for office or, for at least 10 days before the first day set for qualifying for office, publish notice on the county's website as provided in section 50.0311, Florida Statutes, or on the supervisor's website).

Florida's Resign-to-Run Law and Its Effect on Vacancies

Under Florida law, an officeholder is required to submit a resignation from their current office before qualifying as a candidate for another office, if the term of that second office would overlap with their current office.²⁰ The resignation must be irrevocable.²¹ The written resignation must be submitted at least 10 days prior to the first day of qualifying for the office he or she intends to seek.²² The written resignation must be effective no later than the earlier of the date the officer would take office, if elected, or the date the officer's successor is required to take office.²³ The office is deemed vacant upon the effective date of the resignation submitted by the official in his or her letter of resignation.²⁴ Any officer who submits his or her resignation, effective immediately or effective on a date prior to the date of his or her qualifying for office, may then qualify for office as a nonofficeholder.²⁵

Special Primary Elections and General Special Elections

According to a lawsuit filed in Leon County, since January 1, 1999, there have been 80 vacancies in congressional and legislative offices in Florida filled by special election.²⁶ For the 65 vacancies arising between 1999 and 2020, on average, it took 7.6 days for the Governor to call a special election after the vacancy arose.²⁷

From 2017 to 2026 there have been 35 vacancies in congressional and legislative offices in Florida, requiring the Governor to order a special election.²⁸ These vacancies occurred ranging from the death, succession to a new office, and resignation of the office holder.²⁹

The time between the first notice that a vacancy of an office occurred or will occur and the time the Governor issued an order to hold a special election to fill the vacancy has varied greatly from 2027 to 2026.³⁰ During this time period, Governors have issued orders to hold special elections the same day they receive notice that a vacancy has occurred, compared to waiting longer than 90 days in some instances to issue such an order.

²⁰ Section 99.012(3)(a), F.S. (“No officer may qualify as a candidate for another state, district, county, or municipal public office if the terms or any part thereof run concurrently with each other without resigning from the office he or she presently holds”; *See also* Section 99.012(4)(a), F.S. (In regards to any officer who qualifies for federal public office “... must resign from the office he or she presently holds if the terms, or any part thereof, run concurrently with each other”).

²¹ Section 99.012(3)(b), F.S.

²² Section 99.012(3)(c), F.S.

²³ Section 99.012(3)(d), F.S.

²⁴ Section 99.012(3)(f), F.S.

²⁵ Section 99.012(3)(g), F.S.

²⁶ Compl., *Lippe v. DeSantis*, No. 2025 CA 1856 (Fla. 2nd Jud. Cir. Sept. 30, 2025) (In over 25 instances, the Governor took fewer than five days to call the election).

²⁷ *Id.*

²⁸ *See Florida Division of Elections Webpage*, special elections archive 2017-2026 (last updated January 14, 2026), <https://dos.fl.gov/elections/for-voters/special-elections/special-elections-archive/>.

²⁹ *Id.* Resignations have either occurred due to the office holder wanting to leave office entirely or under the requirements of the “Resign to Run Law,” s. 99.012, F.S., to run for a different office for which the term overlaps with their current office.

³⁰ *Id.*

Charts: Days between first notice of vacancy and Governor’s order to hold special elections ranging from 2017-2026³¹

2026 Special Elections

Office	Vacancy Type	Time of Vacancy Notice	Order for Special Election	Time between notice of vacancy and order to hold special election
State Representative (District 51)	Resignation (effective November 7, 2025)	November 7, 2025	November 10, 2025 ³²	3 days
State Representative (District 52)	Resignation (effective September 18, 2025)	September 18, 2025	November 6, 2025 ³³	50 days
State Representative (District 87)	Succession (effective August 19, 2025)	August 19, 2025	October 24, 2025 ³⁴	66 days
State Senate (District 14)	Succession (effective August 12, 2025)	August 12, 2025	October 24, 2025 ³⁵	73 days

³¹ See Florida Division of Elections Webpage, special elections archive 2017-2026 (last updated January 14, 2026), <https://dos.fl.gov/elections/for-voters/special-elections/special-elections-archive/> (The data for the charts was gathered and compiled from the State Division of Elections’ special elections archive webpage that contains various information regarding the issuing and holding of special primary and special elections, ranging from 2017 to 2026. Of important note, Governors over the years upon first notice that a vacancy in office is to occur have taken the opportunity to order a special election to fill such office at the earliest time they are legally able to make such order, rather than waiting till the office is vacant, in order to minimize the time an office is not filled and constituents are without representation. The charts seek to capture the earliest time that the Governors had notice and could take action to order a special election compared to the actual time they ordered a special election to occur).

³² Executive Order 25- 233 (November 10, 2025), <https://files.floridados.gov/media/709752/executive-order-25-233.pdf>.

³³ Executive Order 25-229 (November 6, 2025), <https://files.floridados.gov/media/709744/executive-order-25-229.pdf>.

³⁴ Executive Order 25-210 (October 24, 2025), <https://files.floridados.gov/media/709667/eo-25-210.pdf>.

³⁵ Executive Order 25-209 (October 24, 2025), <https://files.floridados.gov/media/709666/eo-25-209.pdf>.

2025 Special Elections

Office	Vacancy Type	Time of Vacancy Notice	Order for Special Election	Time between vacancy and order to hold special election
State Representative (District 90)	Death (effective July 18, 2025)	July 18, 2025	July 22, 2025 ³⁶	4 days.
State Senate (District 11)	Resignation (effective July 21, 2025)	July 21, 2025	July 22, 2025 ³⁷	1 day
State Representative (District 40)	Resignation (effective September 1, 2025)	April 10, 2025	April 15, 2025 ³⁸	5 days
State Senate (District 15)	Death (effective February 13, 2025)	February 13, 2025	April 8, 2025 ³⁹	54 days
State Representative (District 32)	Resignation (effective June 9, 2025)	January 22, 2025	January 23, 2025 ⁴⁰	1 day
State Senate (District 19)	Resignation (effective March 31, 2025)	November 26, 2024 ⁴¹	January 21, 2025 ⁴²	56 days
State Representative (District 3)	Resignation (effective January 1, 2025)	November 25, 2024 ⁴³	January 21, 2025 ⁴⁴	57 days
US House of Representatives (District 1)	Resignation (effective November 19, 2024)	November 13, 2024	November 22, 2024 ⁴⁵	9 days

³⁶ Executive Order 25-149 (July 22, 2025), <https://files.floridados.gov/media/709351/eo-25-149.pdf>.

³⁷ Executive Order 25-148 (July 22, 2025), <https://files.floridados.gov/media/709346/eo-25-148.pdf>.

³⁸ Executive Order 25-82 (April 15, 2025), <https://files.floridados.gov/media/709025/eo-25-82.pdf>.

³⁹ Executive Order 25-77 (April 8, 2025), <https://files.floridados.gov/media/709009/eo-25-77.pdf>.

⁴⁰ Executive Order 25-17 (January 23, 2025), <https://files.floridados.gov/media/708806/eo-25-17.pdf>.

⁴¹ Resignation Letter, State Senator Randy Fine, District 19 (November 26, 2024), available at <https://www.politico.com/f?id=00000193-6977-dc64-a19f-6f7ff7bd0000>.

⁴² Executive Order 25-15 (January 21, 2025), <https://files.floridados.gov/media/708765/eo-25-15.pdf>.

⁴³ Resignation Letter, State Representative Joel Rudman, District 3 (November 25, 2024), available at https://static-s3.lobbytools.com/docs/2024/11/25/133234_rep_rudman_formal_resignation_letter.pdf.

⁴⁴ Executive Order 25-14 (January 21, 2025), <https://files.floridados.gov/media/708764/eo-25-14.pdf>.

⁴⁵ Executive Order 24-262 (November 22, 2024), <https://files.floridados.gov/media/708642/eo-24-262.pdf>.

US House of Representatives (District 6)	Resignation (effective January 20, 2025)	November 24, 2024	November 25, 2024 ⁴⁶	1 day
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2024 Special Elections

Office	Vacancy Type	Time of Vacancy Notice	Order for Special Election	Time between vacancy and order to hold special election
State Senate (District 24)	Resignation (effective November 4, 2024)	April 15, 2024	May 28, 2024 ⁴⁷	43 days

2023 Special Elections

Office	Vacancy Type	Time of Vacancy Notice	Order for Special Election	Time between vacancy and order to hold special election
State Representative (District 118)	Resignation (effective June 11, 2023)	June 11, 2023	July 19, 2023 ⁴⁸	38 days
State Representative (District 24)	Resignation (effective December 8, 2022)	December 8, 2022 ⁴⁹	December 19, 2022 ⁵⁰	11 days
State Representative (District 35)	Resignation (effective June 30, 2023)	June 30, 2023	July 19, 2023 ⁵¹	19 days

⁴⁶ Executive Order 24-263 (November 25, 2024), <https://files.floridados.gov/media/708632/eo-24-263.pdf>.

⁴⁷ Executive Order 24-101 (May 28, 2024), <https://files.floridados.gov/media/708084/executive-order-24-101.pdf>; See Allen Cone, *Bobby Powell to resign state Senate seat in November, seeks special election*, WPTV Webpage, (April 15, 2024), available at <https://www.wptv.com/news/political/bobby-powell-to-resign-state-senate-seat-in-november-seeks-special-election#:~:text=Facebook,Bobby%20Powell%20to%20resign%20state%20Senate%20seat%20in%20November%2C%20seeks,set%20a%20special%20election%20date>.

⁴⁸ Executive Order 23-141 (July 19, 2023), <https://files.floridados.gov/media/707686/eo-23-141.pdf>.

⁴⁹ Ryan Wyatt Turbeville, *State Rep Joe Harding Resigns after DOJ Indictment*, 20WCJB webpage (December 7, 2022), available at <https://www.wcjb.com/2022/12/07/doj-indicts-state-rep-harding-defrauding-government/>.

⁵⁰ Executive Order 22-278 (December 19, 2022), <https://files.floridados.gov/media/706142/executive-order-22-278.pdf>.

⁵¹ Executive Order 23-140 (July 19, 2023), <https://files.floridados.gov/media/706840/eo-23-140.pdf>.

2022 Special Elections

Office	Vacancy Type	Time of Vacancy Notice	Order for Special Election	Time between vacancy and order to hold special election
State Senate (District 33)	Resignation (effective January 10, 2022)	July 28, 2021 ⁵²	October 27, 2021 ⁵³	91 days
State Representative (District 88)	Resignation (effective January 10, 2022)	July 28, 2021 ⁵⁴	October 27, 2021. ⁵⁵	91 days
State Representative (District 94)	Resignation (effective date January 11, 2022)	July 27, 2021 ⁵⁶	October 27, 2021 ⁵⁷	92 days
U.S. House of Representatives District 20)	Death (effective April 6, 2021)	April 6, 2021	May 6, 2021 ⁵⁸	30 days

2021 Special Elections

(None)

⁵² Compl., *Staples v. DeSantis*, No. 2021 CA 1781 (Fla. 2nd Jud. Cir. Oct. 15, 2021).

⁵³ Executive Order 21-224 (October 27, 2021), https://www.flgov.com/eog/sites/default/files/executive-orders/2024/EO_21-224.pdf.

⁵⁴ Compl., *Staples v. DeSantis*, No. 2021 CA 1781 (Fla. 2nd Jud. Cir. Oct. 15, 2021).

⁵⁵ Executive Order 21-224 (October 27, 2021), https://www.flgov.com/eog/sites/default/files/executive-orders/2024/EO_21-224.pdf.

⁵⁶ Compl., *Staples v. DeSantis*, No. 2021 CA 1781 (Fla. 2nd Jud. Cir. Oct. 15, 2021).

⁵⁷ Executive Order 21-224 (October 27, 2021), https://www.flgov.com/eog/sites/default/files/executive-orders/2024/EO_21-224.pdf.

⁵⁸ Executive Order 21-103 (May 6, 2021), <https://files.floridados.gov/media/704305/executive-order-21-103.pdf>.

2020 Special Elections

Office	Vacancy Type	Time of Vacancy Notice	Order for Special Election	Time between vacancy and order to hold special election
State Senate (District 20)	Resignation (effective date November 3, 2020)	May 29, 2020 ⁵⁹	June 1, 2020 ⁶⁰	3 days

2019 Special Elections

Office	Vacancy Type	Time of Vacancy Notice	Order for Special Election	Time between vacancy and order to hold special election
State Representative (District 7)	Resignation (effective January 11, 2019)	January 11, 2019 ⁶¹	January 24, 2019 ⁶²	13 days
State Representative (District 38)	Resignation (effective January 24, 2019)	January 24, 2019 ⁶³	January 24, 2019 ⁶⁴	0 days
State Representative (District 97)	Resignation (effective January 11, 2019)	January 11, 2019 ⁶⁵	January 24, 2019 ⁶⁶	13 days

⁵⁹ Gary White, *Florida Sen. Tom Lee resigning, leaving seat open*, The Ledger (May 29, 2020, 3:36 pm) available at <https://www.theledger.com/story/news/local/2020/05/29/florida-sen-tom-lee-resigning-leaving-seat-open/112580230/?gnt-cfr=1&gca-cat=p&gca-uir=true&gca-epti=z113838v113838d--38--b--38--&gca-ft=230&gca-ds=sophi>.

⁶⁰ Executive Order 20-136 (June 1, 2020), <https://files.floridados.gov/media/703166/executive-order-20-136.pdf>.

⁶¹ *Representatives of the Florida House (2018 -2020)*, Florida House of Representatives webpage, (last visited 1/31/26), available at <https://flhouse.gov/Sections/Representatives/representatives.aspx?LegislativeTermId=88>.

⁶² Executive Order 19-20 (January 24, 2019), <https://files.floridados.gov/media/700564/executive-order-19-20-hd7-hd38-hd97-2019.pdf>.

⁶³ *Representatives of the Florida House (2018 -2020)*, Florida House of Representatives webpage, (last visited 1/31/26), available at <https://flhouse.gov/Sections/Representatives/representatives.aspx?LegislativeTermId=88>.

⁶⁴ Executive Order 19-20 (January 24, 2019), <https://files.floridados.gov/media/700564/executive-order-19-20-hd7-hd38-hd97-2019.pdf>.

⁶⁵ *Representatives of the Florida House (2018 -2020)*, Florida House of Representatives webpage, (last visited 1/31/26), available at <https://flhouse.gov/Sections/Representatives/representatives.aspx?LegislativeTermId=88>.

⁶⁶ Executive Order 19-20 (January 24, 2019), <https://files.floridados.gov/media/700564/executive-order-19-20-hd7-hd38-hd97-2019.pdf>.

2018 Special Elections

Office	Vacancy Type	Time of Vacancy Notice	Order for Special Election	Time between vacancy and order to hold special election
State Senate (District 23)	Resignation (effective date November 6, 2018)	March 30, 2018 ⁶⁷	May 3, 2018 ⁶⁸	34 days
State Senate (District 25)	Resignation (effective November 6, 2018)	May 2, 2018 ⁶⁹	May 3, 2018 ⁷⁰	1 day.
State Representative (District 39)	Resignation (effective November 24, 2017)	November 8, 2017 ⁷¹	November 28, 2017 ⁷²	20 days
State Representative (District 114)	Resignation (effective November 1, 2017)	November 1, 2017 ⁷³	November 9, 2017 ⁷⁴	8 days
State Senate (District 31)	Resignation (effective October 27, 2017)	October 27, 2017 ⁷⁵	November 6, 2017 ⁷⁶	11 days

⁶⁷ Peter Schorsch, 'Resign to run' bill signed into law, Florida politics (March 31, 2018), available at <https://floridapolitics.com/archives/260196-resign-to-run-bill-signed-into-law/>.

⁶⁸ Executive Order 18-127 (May 3, 2018), <https://files.floridados.gov/media/699481/executive-order-state-senate-23.pdf>.

⁶⁹ Jim Rosica, Joe Negron to leave Senate early, Florida Politics (May 2, 2018), <https://floridapolitics.com/archives/262655-joe-negron-to-leave-senate-early/>.

⁷⁰ Executive Order 18-126 (May 3, 2018), <https://files.floridados.gov/media/699478/executive-order-state-senate-25.pdf>.

⁷¹ Peter Schorsch, Neil Combee praises Richard Corcoran, others in resignation letter, Florida Politics (November 8, 2017), available at <https://floridapolitics.com/archives/249229-neil-combee-praises-richard-corcoran-others-resignation-letter/>.

⁷² Executive Order 17-305 (November 28, 2017), <https://files.floridados.gov/media/698610/hd39-executive-order-17-305.pdf>.

⁷³ Peter Schorsch, Daisy Baez resigns over residency case, but GOP supermajority not assured., Florida Politics (November 1, 2017), available at <https://floridapolitics.com/archives/248459-daisy-baez-resigns-residency/>.

⁷⁴ Executive Order 17-296 (November 9, 2017), <https://files.floridados.gov/media/698539/executive-order-17-296.pdf>.

⁷⁵ Peter Schorsch, Jeff Clemens resigns from Florida Senate, (October 27, 2017), available at <https://floridapolitics.com/archives/248122-jeff-clemens-resigns-senate/>.

⁷⁶ Executive Order 17-288 (November 6, 2017), <https://files.floridados.gov/media/698525/executive-order-17-288.pdf>.

2017 Special Elections

Office	Vacancy Type	Time of Vacancy Notice	Order for Special Election	Time between vacancy and order to hold special election
State Representative (District 72)	Resignation (effective September 1, 2017)	August 24, 2017 ⁷⁷	September 1, 2017 ⁷⁸	8 days
State Representative (District 58)	Resignation (effective August 15, 2017)	July 25, 2017 ⁷⁹	August 1, 2017 ⁸⁰	7 days
State Representative (District 44)	Resignation (effective May 26, 2017)	May 8, 2017 ⁸¹	May 26, 2017 ⁸²	18 days
State Senate (District 40)	Resignation (effective April 21, 2017)	April 21, 2017 ⁸³	May 8, 2017 ⁸⁴	17 days
State Representative (District 116)	Resignation (effective September 26, 2017)	May 17, 2017 ⁸⁵	May 22, 2017 ⁸⁶	5 days

Litigation

In recent years, litigation has arisen in several cases, alleging that the Governor had failed to fulfill his statutory duty to timely call and set special primary elections and special elections upon vacancy of qualifying offices, leaving the petitioners and constituents of the effected jurisdiction without representation and seeking through a writ of mandamus, a court order, requiring the Governor to fulfill his ministerial and nondiscretionary statutory duty to schedule such special elections.⁸⁷ These cases would later be dismissed before reaching the merits because

⁷⁷ Staff Reports, *Alex Miller resigns from House; James Buchanan seeks to replace her*, Florida Politics (August 24, 2017, available at <https://floridapolitics.com/archives/243620-alex-miller-resigns/>).

⁷⁸ Executive Order 17-234 (September 1, 2017), <https://files.floridados.gov/media/698234/executive-order-17-234.pdf>.

⁷⁹ Staff Reports, *Dan Raulerson resigning from Florida House in August*, Florida Politics (July 25, 2017), available at <https://floridapolitics.com/archives/242016-report-dan-raulerson-resigning-florida-house-august/>.

⁸⁰ Executive Order 17-210 (August 1, 2017), <https://files.floridados.gov/media/698151/executive-order-17-210.pdf>.

⁸¹ Scott Powers, *Eric Eisnaugle makes House departure official*, Florida Politics (May 23, 2017), available at <https://floridapolitics.com/archives/238570-eric-eisnaugle-makes-departure-house-representatives-official/>.

⁸² Executive Order 17-162 (May 26, 2017), <https://files.floridados.gov/media/697854/executive-order-17-162.pdf>.

⁸³ Matt Dixon, *Artiles formally resigns from state Senate*, Politico (4/21/2017), available at <https://www.politico.com/states/florida/story/2017/04/21/artiles-formally-resigns-from-senate-111425>.

⁸⁴ Executive Order 17-147 (May 8, 2017), <https://files.floridados.gov/media/697813/executive-order-17-147.pdf>.

⁸⁵ Jenna Buzzacoo-Foerster, *Jose Felix Diaz to resign from House as part of SD 40 bid*, (May 22, 2017) available at <https://floridapolitics.com/archives/238548-jose-felix-diaz-resign-house-part-sd-40-bid/>.

⁸⁶ Executive Order 17-155 (May 22, 2017), <https://files.floridados.gov/media/697846/executive-order-17-155.pdf>.

⁸⁷ See *Dowling v. DeSantis*, No. 9:21-cv-80796 (S.D. Fla. Apr. 29, 2021), (In this case, Congressman Alcee Hastings died in April 2021, creating a vacancy which required the Governor to call a special election to fill the vacancy. Twenty-three days

the Governor, after the suits were filed, called and scheduled the special primary election and special election at issue.⁸⁸

III. Effect of Proposed Changes:

Section One

The bill amends Subsections (1) and (2) of section 100.111, Florida Statutes, by:

- Revising the timeframe for any person seeking to qualify for election to a vacant office that has a remainder of 28 months or more left on its term by:
 - Requiring that if a vacancy in the office occurs before the ninth day before the first day set by law for qualifying for election to the office at the general election, then the person is required to qualify within the time prescribed by law for qualifying for those other offices to be filed by election at that same general election.⁸⁹
 - Requiring that if a vacancy in an office occurs before the primary election but on or after the ninth day before the first day set by law for qualifying, the Secretary of State must set dates for qualifying for the unexpired portion of the term of that office.
 - Requiring, rather than authorizing the Governor, if time does not permit party nominations to be made in conjunction with the primary election, that the Governor **must** call a special primary election to select a party nominee for the unexpired portion of the term and, if necessary, a special election.
- Requiring the Governor to fix the dates of special primary elections and special elections within 14 days after the vacancy occurs.
- Requiring the Governor to consult with the Secretary of State and the applicable supervisor of elections before setting the special election dates.
- Requiring the Governor to schedule the earliest dates feasible to hold the special primary elections and special elections on specific certain days.

after Congressman Hastings death, a would-be candidate filed suit, seeking to compel the Governor to call an election to fulfill his duty under Article I, Section 2 of the U.S. Constitution and Fla. Stat. s. 100.111(2). The case was ultimately dismissed when a week later the Governor called a special election for January 11, 2022. Thirty days passed from the death of Congressman Hastings, creating the vacancy of his office, to the Governor ordering a special election be held. The actual date set for the special election, January 11, 2022, was more than nine months after Congressman Hastings' death); **Compl., Staples v. DeSantis, No. 2021 CA 1781 (Fla. 2nd Jud. Cir. Oct. 15, 2021)** (In this case, in July 2021, three legislators submitted resignations to run in the congressional special election. After the Governor had not called for the special elections of the three vacant legislative seats, residents of these districts petitioned the court for mandamus relief. The case would be dismissed after the Governor called for the special elections to fill the vacant legislative seats in dispute. Here over 90 days had lapsed from the vacancies in office having occurred to the Governor calling for special elections). **Order to Show Cause, Zamora v. DeSantis, No. 2023 CA 1857 (Fla. 2nd Jud. Cir. Ct. July 17, 2023)** (Here, the petitioner, a district resident, filed suit to compel the Governor to call a special election to fill a vacancy of a State House seat. The matter was dismissed when the Governor ordered special elections after the suit was filed, 38 days after the vacancy in office occurred); **Compl., Lippe v. DeSantis, No. 2025 CA 1856 (Fla. 2nd Jud. Cir. Sept. 30, 2025)** (Here, a vacancy occurred in a state Senate office, Petitioner, an elector of that district, filled a writ of mandamus seeking the court to compel the Governor to order a special election to fill the vacancy, which had not occurred within the 45 days previous to filing suit. This suit was later dismissed when the Governor ordered the special election to fill the vacancy, 73 days later).

⁸⁸ See *Cort Lippe v. Ron Desantis Governor Of Florida*, 372025CA001856 (Westlaw).

⁸⁹ See Florida Division of Elections Webpage, *Election Dates*, (last updated August 22, 2025), <https://dos.fl.gov/elections/for-voters/election-dates/> (A primary election is held 11 weeks before the general election. The general election is held on the first Tuesday after the first Monday in November of every even-numbered year. The Primary Election date for 2026 is August 18, 2026. The General Election date for 2026 is November 3, 2026).

- Revising and providing timeframes for special primary elections and special elections under certain circumstances:
 - Requiring that the fixed dates for the special primary election and special election provide a minimum of 8 to 12 weeks between each election.
 - In cases where a vacancy occurs, involving a state Senator or state House member, less than 126 days before the first day of the Legislative Regular Session, requires the Governor, within 5 days after the vacancy occurs, to fix the dates for a special primary election and a special election to fill the vacancy. The dates set by the Governor must provide for at least 2 weeks between the special primary election and the special election and must ensure that both elections are held before the first day of the Regular Legislation Session to prevent a lapse of time in representation of constituents of that office.
 - Requiring that the special election be held no later than 126 days after the vacancy occurs, except if a supervisor, where the special election will be held, certifies that holding the special election within the required time period would conflict with the scheduled elections and impose an undue hardship on the orderly administration of election, then the special election must be held no later than 175 days after the vacancy occurs.
 - Removing from current law, the Governor, Speaker of the House of Representatives, and President of the Senate, ability through agreement, to waive the minimum time frames proscribed, in cases where a vacancy occurs involving State Senators or State House Members when the Legislature is in Regular Legislative Session.
 - Requiring the Governor, if possible, to fix dates for the special primary election and special election to coincide with scheduled elections.
 - Requiring a special election held to fill a vacancy caused by resignation submitted pursuant to s. 99.012, F.S.,⁹⁰ be held no later than the election for which the resigning officer seeks to qualify.
- Authorizing qualified electors to file a petition with the circuit court seeking judicial determination of a special election date if the Governor does not comply with the deadlines for ordering a special election.
 - Authorizing the circuit court, upon a finding that the Governor has failed to comply with deadlines of the bill, to fix and declare the earliest feasible and lawful dates for the special primary election and special election, consistent with the requirements of chapter 100 and the Florida Election Code.
 - Requiring the Court to expedite consideration of any petition filed under the subsection to ensure the timely filling of the vacancy and to safeguard the right of representation for voters within the affected districts.
- Providing that certain persons are deemed elected under specified circumstances:
 - Providing that if only one candidate qualifies in a special election, that candidate is deemed elected on the last day of the qualifying period.
 - Providing that if the winner of a special primary election does not have opposition in the special election, he or she is deemed elected at the special primary election.
 - Providing in either of the above cases, the person elected takes office upon election or upon the office becoming vacant, whichever occurs later.

⁹⁰ Referencing Florida's "Resign to Run" law, found in s. 99.012, F.S.

Section Two

The bill amends subsection (1) of s. 100.141, F.S., by:

- Requiring, whenever a special election is required to fill any vacancy in office, the Governor:
 - To consult the Secretary of State and the supervisor of elections, of any affected county, before scheduling a special election.
 - After consultation with the Secretary of State and the supervisor of elections of any affected county, to issue an order declaring on what day the special primary election or special election will be held and deliver the order to the Department of State.
 - To issue the order within 14 days after the occurrence of the vacancy or, for vacancies arising due to a resignation pursuant to section. 99.012, F.S.,⁹¹ within 14 days after the written resignation is submitted to the Governor, whichever is sooner.

Section Three

This act takes effect July 1, 2026.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

⁹¹ Referencing Florida's "Resign to Run" law. As previously mentioned, under this law, an office holder in order to run for another office that's term overlaps with his or her current term of office, must submit an *irrevocable* resignation letter.

B. Private Sector Impact:

None.

C. Government Sector Impact:

There may be an indeterminate fiscal impact on the government regarding training and coming into compliance with shorter time periods required for preparing and holding special primary and special elections. Although any fiscal impact, most likely will be negligent, because the primary special elections and special elections are already required to be held by law and have previously been ordered, scheduled, and held in specific instances in the past under the proscribed timelines of the bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 100.111, 100.141.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.