



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

HB5941

Introduced 2/10/2010, by Rep. Sidney H. Mathias

#### SYNOPSIS AS INTRODUCED:

10 ILCS 5/7-61

from Ch. 46, par. 7-61

Amends the Election Code. Beginning June 1, 2011, provides that when a vacancy in nomination occurs on or after the general primary but more than 90 days before certification of candidates for the general election ballot, other than because no candidate's name appeared on the general primary ballot and no write-in candidate was nominated, the vacancy may be filled only at a special primary election on a date set by the State Board of Elections but at least 30 days before the date of certification. Beginning June 1, 2011, permits a vacancy in nomination occurring less than 91 days before certification of candidates for the general election ballot but more than 15 days before the general election to be filled by the political party's nominating committee only if the vacancy is due to the candidate's death or incapacitating illness. Beginning June 1, 2011, adds inability to fulfill the duties of the office sought due to illness as an event creating a vacancy in nomination. (Now, a vacancy in nomination occurring on or after the general primary, other than due to the lack of candidates, and before the 15th day before the general election is filled by the party's nominating committee by certain deadlines based upon when the vacancy occurs).

LRB096 15838 JAM 31080 b

1 AN ACT concerning elections.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Election Code is amended by changing Section  
5 7-61 as follows:

6 (10 ILCS 5/7-61) (from Ch. 46, par. 7-61)

7 Sec. 7-61. Vacancies in nomination.

8 (a) Whenever a special election is necessary the provisions  
9 of this Article are applicable to the nomination of candidates  
10 to be voted for at such special election.

11 (b) In cases where a primary election is required for a  
12 special election, the officer or board or commission whose duty  
13 it is under the provisions of this Act relating to general  
14 elections to call an election, shall fix a date for the primary  
15 for the nomination of candidates to be voted for at such  
16 special election. Notice of such primary shall be given at  
17 least 15 days prior to the maximum time provided for the filing  
18 of petitions for such a primary as provided in Section 7-12.

19 (c) This subsection applies beginning June 1, 2011. Except  
20 as provided in subsection (i), a vacancy in nomination  
21 occurring on or after the general primary and more than 90 days  
22 before certification of candidates for the general election  
23 ballot may be filled only by a special primary on a date set by

1 the State Board of Elections but at least 30 days before  
2 certification of candidates for the general election ballot.  
3 The State Board shall establish the time periods with respect  
4 to that special primary for (i) circulation and filing of  
5 nominating petitions, (ii) filing, hearing, and determination  
6 of objections, (iii) certification of candidates, (iv) early  
7 and absentee voting, (v) canvassing of votes, (vi) declaration  
8 of primary results, and (vii) any other activity required for  
9 the conduct of the special primary.

10 A vacancy in nomination occurring less than 91 days before  
11 certification of candidates for the general election ballot but  
12 more than 15 days before the general election may be filled by  
13 resolution of the appropriate political party nominating  
14 committee (i) only if the vacancy was created by the nominee's  
15 death or inability to fulfill the duties of the office sought  
16 due to the nominee's illness and (ii) only if the vacancy is  
17 filled within 8 days after the vacancy is created.

18 (d) When subsection (c) does not apply, any ~~Any~~ vacancy in  
19 nomination under the provisions of this Article 7 occurring on  
20 or after a ~~the~~ primary and prior to certification of candidates  
21 by the certifying board or officer, must be filled by  
22 resolution of the appropriate political party's nominating  
23 committee prior to the date of certification or as provided in  
24 subsection (i) when that subsection applies. Any vacancy in  
25 nomination occurring after certification but prior to 15 days  
26 before the general election shall be filled within 8 days after

1 the event creating the vacancy.

2 (e) The resolution filling the vacancy shall be sent by U.  
3 S. mail or personal delivery to the certifying officer or board  
4 within 3 days of the action by which the vacancy was filled;  
5 provided, if such resolution is sent by mail and the U. S.  
6 postmark on the envelope containing such resolution is dated  
7 prior to the expiration of such 3 day limit, the resolution  
8 shall be deemed filed within such 3 day limit. Failure to so  
9 transmit the resolution within the time specified in this  
10 Section shall authorize the certifying officer or board to  
11 certify the original candidate.

12 (f) Vacancies to be filled by resolution shall be filled by  
13 the officers of a local municipal or township political party  
14 as specified in subsection (h) of Section 7-8, other than a  
15 statewide political party, that is established only within a  
16 municipality or township and the managing committee (or  
17 legislative committee in case of a candidate for State Senator  
18 or representative committee in the case of a candidate for  
19 State Representative in the General Assembly or State central  
20 committee in the case of a candidate for statewide office,  
21 including but not limited to the office of United States  
22 Senator) of the respective political party for the territorial  
23 area in which such vacancy occurs.

24 The resolution to fill a vacancy in nomination shall be  
25 duly acknowledged before an officer qualified to take  
26 acknowledgements of deeds and shall include, upon its face, the

1 following information:

2 (1) ~~(a)~~ the name of the original nominee and the office  
3 vacated;

4 (2) ~~(b)~~ the date on which the vacancy occurred;

5 (3) ~~(c)~~ the name and address of the nominee selected to  
6 fill the vacancy and the date of selection.

7 The resolution to fill a vacancy in nomination shall be  
8 accompanied by a Statement of Candidacy, as prescribed in  
9 Section 7-10, completed by the selected nominee and a receipt  
10 indicating that such nominee has filed a statement of economic  
11 interests as required by the Illinois Governmental Ethics Act.

12 The provisions of Section 10-8 through 10-10.1 relating to  
13 objections to certificates of nomination and nomination  
14 papers, hearings on objections, and judicial review, shall  
15 apply to and govern objections to resolutions for filling a  
16 vacancy in nomination.

17 (g) Any vacancy in nomination occurring 15 days or less  
18 before the consolidated election or the general election shall  
19 not be filled. In this event, the certification of the original  
20 candidate shall stand and his name shall appear on the official  
21 ballot to be voted at the general election.

22 (h) A vacancy in nomination occurs when a candidate who has  
23 been nominated under the provisions of this Article 7 dies  
24 before the election (whether death occurs prior to, on, l or  
25 after the day of the primary), ~~or~~ declines the nomination, or,  
26 beginning June 1, 2011, is unable to fulfill the duties of the

1 office sought due to his or her own illness; provided that  
2 nominations may become vacant for other reasons.

3 (i) If the name of no established political party candidate  
4 was printed on the consolidated primary ballot for a particular  
5 office and if no person was nominated as a write-in candidate  
6 for such office, a vacancy in nomination shall be created which  
7 may be filled in accordance with the requirements of this  
8 Section. If the name of no established political party  
9 candidate was printed on the general primary ballot for a  
10 particular office and if no person was nominated as a write-in  
11 candidate for such office, a vacancy in nomination shall be  
12 filled only by a person designated by the appropriate committee  
13 of the political party and only if that designated person files  
14 nominating petitions with the number of signatures required for  
15 an established party candidate for that office within 75 days  
16 after the day of the general primary. The circulation period  
17 for those petitions begins on the day the appropriate committee  
18 designates that person. The person shall file his or her  
19 nominating petitions, statements of candidacy, notice of  
20 appointment by the appropriate committee, and receipt of filing  
21 his or her statement of economic interests together. These  
22 documents shall be filed at the same location as provided in  
23 Section 7-12. The electoral boards having jurisdiction under  
24 Section 10-9 to hear and pass upon objections to nominating  
25 petitions also shall hear and pass upon objections to  
26 nomination petitions filed by candidates under this paragraph.

1       (j) A candidate for whom a nomination paper has been filed  
2 as a partisan candidate at a primary election, and who is  
3 defeated for his or her nomination at such primary election, is  
4 ineligible to be listed on the ballot at that general or  
5 consolidated election as a candidate of another political  
6 party.

7       A candidate seeking election to an office for which  
8 candidates of political parties are nominated by caucus who is  
9 a participant in the caucus and who is defeated for his or her  
10 nomination at such caucus, is ineligible to be listed on the  
11 ballot at that general or consolidated election as a candidate  
12 of another political party.

13       (k) In the nominating committee's proceedings to nominate a  
14 candidate to fill a vacancy or to fill a vacancy in the  
15 nomination, each precinct, township, ward, county or  
16 congressional district, as the case may be, shall through its  
17 representative on such central or managing committee, be  
18 entitled to one vote for each ballot voted in such precinct,  
19 township, ward, county or congressional district, as the case  
20 may be, by the primary electors of its party at the primary  
21 election immediately preceding the meeting at which such  
22 vacancy is to be filled.

23       (l) For purposes of this Section, the words "certify" and  
24 "certification" shall refer to the act of officially declaring  
25 the names of candidates entitled to be printed upon the  
26 official ballot at an election and directing election

1 authorities to place the names of such candidates upon the  
2 official ballot. "Certifying officers or board" shall refer to  
3 the local election official, election authority or the State  
4 Board of Elections, as the case may be, with whom nomination  
5 papers, including certificates of nomination and resolutions  
6 to fill vacancies in nomination, are filed and whose duty it is  
7 to "certify" candidates.

8 (Source: P.A. 96-809, eff. 1-1-10; 96-848, eff. 1-1-10.)