



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB1428

Introduced 2/11/2009, by Sen. Matt Murphy

SYNOPSIS AS INTRODUCED:

10 ILCS 5/7-61

from Ch. 46, par. 7-61

Amends the Election Code. 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. 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. 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 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). Effective June 1, 2009.

LRB096 00193 JAM 10196 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. Vacancy 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 election⁷ 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) Except as provided in subsection (i), a vacancy in
20 nomination occurring on or after the general primary and more
21 than 90 days before certification of candidates for the general
22 election ballot may be filled only by a special primary on a
23 date set by the State Board of Elections but at least 30 days

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

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

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

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

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

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

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

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

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

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

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

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

21 (h) A vacancy in nomination occurs when a candidate who has
22 been nominated under the provisions of this Article 7 dies
23 before the election (whether death occurs prior to, on, l or
24 after the day of the primary), is unable to fulfill the duties
25 of the office sought due to his or her own illness, or declines
26 the nomination; provided that nominations may become vacant for

1 other reasons.

2 (i) If the name of no established political party candidate
3 was printed on the consolidated primary ballot for a particular
4 office and if no person was nominated as a write-in candidate
5 for such office, a vacancy in nomination shall be created which
6 may be filled in accordance with the requirements of this
7 Section. If the name of no established political party
8 candidate was printed on the general primary ballot for a
9 particular office and if no person was nominated as a write-in
10 candidate for such office, a vacancy in nomination shall be
11 created, but no candidate of the party for the office shall be
12 listed on the ballot at the general election unless such
13 vacancy is filled in accordance with the requirements of this
14 Section within 60 days after the date of the general primary.

15 (j) A candidate for whom a nomination paper has been filed
16 as a partisan candidate at a primary election, and who is
17 defeated for his or her nomination at such primary election, is
18 ineligible to be listed on the ballot at that general or
19 consolidated election as a candidate of another political
20 party.

21 A candidate seeking election to an office for which
22 candidates of political parties are nominated by caucus who is
23 a participant in the caucus and who is defeated for his or her
24 nomination at such caucus, is ineligible to be listed on the
25 ballot at that general or consolidated election as a candidate
26 of another political party.

1 (k) In the nominating committee's proceedings to nominate a
2 candidate to fill a vacancy or to fill a vacancy in the
3 nomination, each precinct, township, ward, county or
4 congressional district, as the case may be, shall through its
5 representative on such central or managing committee, be
6 entitled to one vote for each ballot voted in such precinct,
7 township, ward, county or congressional district, as the case
8 may be, by the primary electors of its party at the primary
9 election immediately preceding the meeting at which such
10 vacancy is to be filled.

11 (l) For purposes of this Section, the words "certify" and
12 "certification" shall refer to the act of officially declaring
13 the names of candidates entitled to be printed upon the
14 official ballot at an election and directing election
15 authorities to place the names of such candidates upon the
16 official ballot. "Certifying officers or board" shall refer to
17 the local election official, election authority or the State
18 Board of Elections, as the case may be, with whom nomination
19 papers, including certificates of nomination and resolutions
20 to fill vacancies in nomination, are filed and whose duty it is
21 to "certify" candidates.

22 (Source: P.A. 94-645, eff. 8-22-05.)

23 Section 99. Effective date. This Act takes effect June 1,
24 2009.