

Regular Session, 2014

SENATE BILL NO. 415

BY SENATOR CLAITOR

JUDGES. Provides a framework for decreasing the number of judges. (8/1/14)

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AN ACT

To amend and reenact R.S. 18:621(A) and to enact R.S. 18:621(C), relative to a vacancy in the office of a judge; to provide relative to the calling of a special election by the governor; to provide relative to the date of such election; to provide certain terms, conditions, and procedures; to authorize certain action by the governor and legislature; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 18:621(A) is hereby amended and reenacted and R.S. 18:621(C) is hereby enacted to read as follows:

§621. Vacancy in office of judge

A.(1) Within twenty-four hours after having knowledge of a vacancy in the office of a judge, including a vacancy by reason of a newly created judgeship, the supreme court shall give written notice to the governor **and the legislature** that the vacancy exists, the date on which it occurred, and the cause thereof.

(2) ~~if~~ **Except as provided in Subsection C, if** more than twelve months of the term remain unexpired, then within ten days after being notified of the vacancy, the governor shall determine the dates on which the special elections to fill the

1 vacancy shall be held and the dates of the qualifying period and shall issue his
2 proclamation ordering a special election and specifying the dates on which the
3 primary and general elections will be held and the dates of the qualifying period for
4 the election. However, if the deadline for issuing the proclamation falls on a
5 Saturday, Sunday, or other legal holiday, then the next day which is not a Saturday,
6 Sunday, or legal holiday shall be deemed to be the final day for issuing such
7 proclamation.

8 (3) **The Except as provided in Subsection C, the** governor shall call any
9 special election to fill a newly created judgeship or a vacancy in an existing
10 judgeship in accordance with the dates for elections set forth in R.S. 18:402, if such
11 dates can be utilized to fill a newly created judgeship or fill a vacancy in an existing
12 judgeship within the period of time prescribed in Article V, Section 22(B) of the
13 Louisiana Constitution. In selecting the dates for such special elections, the governor
14 shall first choose a gubernatorial or congressional election date; if no such date is
15 available during the constitutionally prescribed time period, the governor shall then
16 select another election date, as provided for in R.S. 18:402.

17 * * *

18 **C. Notwithstanding the provisions of Subsection A, when there is a**
19 **vacancy in an existing judgeship:**

20 **(1) The governor shall issue a proclamation calling a special election to**
21 **fill the vacancy thirty days after being notified of the vacancy.**

22 **(2) Prior to the issuance of a proclamation calling a special election to fill**
23 **the vacancy, the governor shall determine whether there is a need to**
24 **immediately fill the vacancy by election. Such determination may include**
25 **consultation with the Judicial Council as to recommendations it may have**
26 **regarding the filling of judicial office vacancies within that district. Any**
27 **recommendations of the Judicial Council shall be in writing and a public**
28 **record. A copy of the recommendations shall be provided to the governor and**
29 **to the legislature.**

- 1 **(3) If the legislature is in session, it may by concurrent resolution request**
2 **and recommend to the governor to postpone to the greatest extent possible the**
3 **filling of the vacancy, and may additionally include within such concurrent**
4 **resolution a request and recommendation that legislation should be enacted to**
5 **eliminate the judgeship for a fixed period of time or permanently pursuant to**
6 **Article V of the Louisiana Constitution. If the legislature is not in session it may**
7 **adopt and make the same requests and recommendations to the governor by**
8 **letter, if the contents of the letter have been approved through ballot by a**
9 **majority of the elected members of each house. The letter shall be signed by the**
10 **presiding officers of both houses, and delivered to the governor before**
11 **expiration of the time period for issuance of the proclamation to fill the vacancy.**
- 12 **(4) If the governor determines there is no need to immediately fill the**
13 **vacancy by election, or if the legislature adopts the request and**
14 **recommendation to the governor set forth above, the special election called by**
15 **the governor to fill the vacancy shall be held no earlier than the last date**
16 **available to satisfy the requirements of Article V, Section 22(B), of the**
17 **Louisiana Constitution; otherwise, the date of the special election shall be**
18 **determined by the governor in accordance with Subsection A above.**

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Cathy Wells.

DIGEST

Claitor (SB 415)

Present law relative to a vacancy in the office of a judge provides that within twenty-four hours after having knowledge of a vacancy in the office of a judge, including a vacancy by reason of a newly created judgeship, the supreme court shall give written notice to the governor that the vacancy exists, the date on which it occurred, and the cause thereof.

Proposed law retains present law and adds such notice shall also be given the legislature.

Present law provides that if more than twelve months of the term remain unexpired, then within ten days after being notified of the vacancy, the governor shall determine the dates on which the special elections to fill the vacancy shall be held and the dates of the qualifying period and shall issue his proclamation ordering a special election and specifying the dates on which the primary and general elections will be held and the dates of the qualifying period for the election.

Present law further provides that the governor shall call any special election to fill a newly

created judgeship or a vacancy in an existing judgeship in accordance with the dates for elections set forth in R.S. 18:402, if such dates can be utilized to fill a newly created judgeship or fill a vacancy in an existing judgeship within the period of time prescribed in Article V, Section 22(B) of the Louisiana Constitution. Present law further provides that in selecting the dates for such special elections, the governor shall first choose a gubernatorial or congressional election date; if no such date is available during the constitutionally prescribed time period, the governor shall then select another election date, as provided for in R.S. 18:402.

Proposed law retains present law but provides an exception.

Proposed law provides that if the vacancy is in an existing judgeship, the governor shall have thirty days after being notified of the vacancy to call a special election to fill the vacancy.

Proposed law further provides that prior to calling the election the governor shall determine whether there is a need to immediately fill the vacancy.

Proposed law also provides that if the legislature is in session, it may by concurrent resolution request and recommend to the governor to postpone to the greatest extent possible the filling of the vacancy and may additionally include within such concurrent resolution a request and recommendation that legislation should be enacted to eliminate the judgeship for a fixed period of time or permanently pursuant to Article V of the Louisiana Constitution. If the legislature is not in session the recommendations may be made by written request if the contents of the letter have been approved through ballot by a majority of the elected members of each house. The letter will be signed by the presiding officers of both houses and delivered to the governor before expiration of the time period for issuance of the proclamation to fill the vacancy.

Proposed law further provides that if the governor determines there is no need to immediately fill the vacancy by election, or if the legislature adopts the request and recommendation to the governor set forth above, the special election called by the governor to fill the vacancy shall be held no earlier than the last date available to satisfy the requirements of Article V, Section 22(B), of the Louisiana Constitution; otherwise, the date of the special election shall be determined by the governor in accordance with the present law.

[Note: La. Const. Art. V, Sec. 22(B) - "(B) Vacancy. A newly-created judgeship or a vacancy in the office of a judge shall be filled by special election called by the governor and held within twelve months after the day on which the vacancy occurs or the judgeship is established, except when the vacancy occurs in the last twelve months of an existing term. Until the vacancy is filled, the supreme court shall appoint a person meeting the qualifications for the office, other than domicile, to serve at its pleasure. The appointee shall be ineligible as a candidate at the election to fill the vacancy or the newly-created judicial office. No person serving as an appointed judge, other than a retired judge, shall be eligible for retirement benefits provided for the elected judiciary."]

Effective August 1, 2014.

(Amends R.S. 18:621(A); adds R.S. 18:621(C))