Regular Session, 2011

HOUSE BILL NO. 575

BY REPRESENTATIVE FANNIN

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

ELECTIONS: Provides relative to vacancies in state legislative office

AN ACT

To amend and reenact R.S. 18:601, relative to state legislative vacancies; to provide relative to elections to fill state legislative vacancies; to authorize certain appointments to temporarily fill such vacancies; to provide for certain procedures relative to such elections and appointments; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 18:601 is hereby amended and reenacted to read as follows:

§601. Vacancy in <u>state legislative</u> office; legislative service<u>; temporary successors</u>

A. If a vacancy in the office of a state legislator occurs and if six months or more of the term remains unexpired, then within ten days of the vacancy occurring, the presiding officer of the house in which the vacancy occurs shall determine the dates of the primary and general elections and the dates of the qualifying period for the election and shall issue a proclamation advising of the vacancy and setting forth the election dates and dates of the qualifying period for candidates. <u>In choosing the election dates, the presiding officer may utilize the available dates in R.S. 18:402(E).</u> However, if the deadline for issuing the proclamation falls on a Saturday, Sunday, or other legal holiday, then the next day which is not a Saturday, Sunday, or legal holiday shall be deemed to be the final day for issuing such proclamation. The speaker of the House of Representatives or the president of the Senate shall immediately forward such information to the secretary of state, who shall within

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twenty-four hours after receipt of the information notify all election officials having any duty to perform in connection with a special election to fill such vacancy, including the parish boards of election supervisors for the parish or parishes in which the vacancy occurred. The secretary of state shall also publish the proclamation in the official journal of each parish in which the election is to be held.

B. For purposes of Article III, Section 4(E) of the Constitution of Louisiana only, the service of a person who is elected to fill an unexpired term in the office of state legislator shall begin at the time such person takes the oath of office before his house of the legislature.

C.(1) In accordance with Article III, Section 4(D) and (F), if a vacancy in the office of a state legislator occurs, the presiding officer of the house in which the vacancy occurs may appoint a temporary successor to serve until the office is filled by election and the elected successor takes the oath of office.

(2)(a) Each person appointed to serve as a temporary successor for a legislator pursuant to this Section shall have the qualifications and eligibility to serve as a member of the legislature from the legislative district in which the vacancy occurred.

(b) The temporary successor shall be ineligible as a candidate at the election to fill the vacancy.

(3) No person who is a member of the immediate family of the legislator or former legislator who vacated the office shall be eligible to serve as a temporary successor to fill the vacancy. For purposes of this Paragraph, the term "immediate family" shall have the same meaning as provided in R.S. 42:1102.

(4)(a)(i) Each legislator who vacates his office by resignation shall include with his resignation a list containing the names and contact information of at least three qualified nominees to be his temporary successor. The list shall be in writing and shall be signed by the legislator and duly acknowledged by him before an officer authorized to administer oaths. The list shall become irrevocable upon receipt by the appropriate presiding officer. If the presiding officer appoints a temporary successor

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to fill the vacancy, he shall appoint a temporary successor from the list of qualified nominees submitted by the legislator within ten days of the vacancy.

(ii) Except as otherwise provided in Item (i) of this Subparagraph, if the presiding officer of the house in which the vacancy occurs appoints a temporary successor to fill a vacancy, the presiding officer shall appoint a qualified person who has the same political party affiliation as the legislator who vacated the office or if the legislator who vacated the office was not affiliated with a political party, the presiding officer shall appoint a qualified person who is not affiliated with a political party.

(b) All appointments made pursuant to this Paragraph shall be made by proclamation of the presiding officer, attested to by the clerical officer of the house, and shall be deposited in the office of the secretary of state and recorded by him.

(c) The presiding officer shall immediately notify each member of his house of the legislature of the name of the person appointed to serve as temporary successor.

(d) If a person appointed to serve as a temporary successor is unable to serve for any reason, the appropriate presiding officer may appoint a different person to serve in the same manner as the original appointment.

(5) A temporary successor shall serve at the pleasure of the house of the legislature of which he is a temporary member, and all constitutional and statutory provisions pertaining to the discipline and expulsion of a legislator shall be applicable to a temporary successor.

Section 2. This Act shall take effect and become operative if and when the proposed amendment of Article III, Section 4(D) and (F) of the Constitution of Louisiana contained in the Act which originated as House Bill No. 359 of this 2011 Regular Session of the Legislature is adopted at the statewide election to be held on October 22, 2011, and becomes effective.

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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Fannin HB No. 575

Abstract: Provides procedures for the appropriate presiding officer to appoint a temporary successor to fill a legislative vacancy until the office is filled by election and provides certain qualifications for a person to serve as a temporary successor.

Present law (R.S. 18:402) provides dates for primary and general elections including gubernatorial, congressional, municipal, and special elections, and for proposition elections. For special elections to fill a newly created office or vacancy in an existing office, present law (R.S. 18:402(E)) provides that except for the office of state legislator or representative in congress a special primary shall be held on the first of the following days that is not less than 11 weeks after the date on which the proclamation calling the special primary election was issued:

(1) The second to last Saturday in October, when the special general election is held on the fourth Saturday after the second to last Saturday in October.

(2) The first Tuesday after the first Monday in November, when the special general election is held on the first Saturday in December.

(3) The first Saturday in April, when the special general election is held on the fourth Saturday after the first Saturday in April or on the second or third Saturday in February during the presidential election year, if the statewide presidential preference primary election is scheduled on the second or third Saturday in February of the presidential election year (however, commencing in 1986 and every fourth year thereafter, this date shall not be applicable in a parish containing a municipality with a population of four hundred seventy-five thousand or more.)

(4) The third Saturday in October, when the special general election is held on the fourth Saturday after the third Saturday in October of 1985 and every fourth year thereafter.

(5) The first Saturday in February of an election year for parish and municipal officers in a parish containing a municipality with a population of four hundred seventy-five thousand or more.

Present law (R.S. 18:601) provides relative to a vacancy in the office of a state legislator. Provides for holding an election if such vacancy occurs with six months or more of the term unexpired. Requires, within 10 days of the vacancy, the appropriate presiding officer to determine the dates of qualifying and of the primary and general elections and to issue a proclamation advising of the vacancy and the dates. Requires the presiding officer to immediately notify the secretary of state who shall notify all election officials having any duty to perform in connection with the special election to fill the vacancy. Further requires the secretary of state to publish the proclamation in the official journal of each parish in which the election is to be held. Present law further provides that for purposes of present law (La. Const. Art. III, §4(E), relative to election limitations), the service of a person who is elected to fill an unexpired term in the office of state legislator begins at the time such person takes the oath of office before his house of the legislature.

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Proposed law retains present law but specifically authorizes the presiding officer to utilize the dates in present law.

Proposed law further provides, in accordance with the proposed constitutional amendment (Art. III, Section 4(D) and (F)-to allow the appointment of temporary successors to fill legislative vacancies), that the presiding officer of the house in which the vacancy occurs may appoint a temporary successor to serve until the office is filled by election and the elected successor takes the oath of office.

Proposed law specifies that each person appointed to serve as a temporary shall have the qualifications and eligibility to serve as a member of the legislature from the legislative district in which the vacancy occurred; that the temporary successor is ineligible to be a candidate in the election to fill the vacancy; and that an immediate family member of the legislator who vacated the office is not eligible to serve as a temporary successor to fill the vacancy.

Proposed law requires that each legislator who vacates his office by resignation to include with his resignation a list containing the names and contact information of at least three qualified nominees to be his temporary successor. Provides that if the presiding officer appoints a temporary successor to fill that vacancy, he shall appoint a temporary successor from the list of qualified nominees submitted by the legislator within ten days of the vacancy. Proposed law provides for vacancies in state legislative office that occur for other reasons than resignation, that if the presiding officer of the house in which the vacancy occurs appoints a temporary successor to fill a vacancy, the presiding officer shall appoint a qualified person who has the same political party affiliation as the legislator who vacated the office or if the legislator who vacated the office was not affiliated with a political party, the presiding officer shall appoint a qualified person who is not affiliated with a political party. Requires all such appointments to be made by proclamation of the presiding officer, attested to by the clerical officer of the house, and deposited in the office of the secretary of state and recorded by him. Further requires the presiding officer to immediately notify each member of his house of the legislature of the name of the person appointed to serve as temporary successor. Provides that if a person appointed to serve as a temporary successor is unable to serve for any reason, the appropriate presiding officer may appoint a different person to serve in the same manner as the original appointment. Specifies that a temporary successor shall serve at the pleasure of the house of the legislature of which he is a temporary member, and all constitutional and statutory provisions pertaining to the discipline and expulsion of a legislator shall be applicable to a temporary successor.

Effective if and when the proposed amendment of Article III, Section 4(D) and (F) of the Constitution of Louisiana contained in the Act which originated as House Bill No. 359 of this 2011 Regular Session of the Legislature is adopted at the statewide election to be held on Oct. 22, 2010, and becomes effective.

(Amends R.S. 18:601)

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