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 for elections to fill vacancies in state legislative office

AN ACT

To amend and reenact R.S. 18:402(E)(introductory paragraph) and 601(A), relative to state legislative vacancies; to provide relative to elections to fill state legislative vacancies; to require such elections to be held on certain dates; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 18:402(E)(introductory paragraph) and 601(A) are hereby amended and reenacted to read as follows:

§402. Dates of primary and general elections

* * *

E. Special elections to fill newly created office or vacancy in office. An election to fill a newly created office or vacancy in an existing office, except the office of ~~state legislator or~~ representative in congress, shall be held on the dates fixed by the appropriate authority in the proclamation ordering a special election as follows:

* * *

§601. Vacancy in <u>state legislative</u> office ~~of state legislators~~; legislative service

A.<u>(1)</u> 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

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~~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.~~ issue a proclamation advising of the vacancy and ordering a special election to fill the vacancy and shall specify in the proclamation, in accordance with R.S. 18:402, the dates on which the primary and general elections shall be held and, in accordance with R.S. 18:467, 467.1, and 468, the dates of the qualifying period for candidates in the special election. 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 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.

(2) Notwithstanding the provisions of Paragraph (1) of this Subsection or R.S. 18:402, if a vacancy in the office of state legislator occurs and if six months or more of the term remains unexpired and in the discretion of the presiding officer of the house of the legislature in which the vacancy occurs a person may be elected and serve during a session of the legislature which occurs prior to the next regularly scheduled election dates provided in R.S. 18:402, 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. However, if the deadline for issuing the proclamation falls on a Saturday,

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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 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.

* * *

Section 2. This Act shall become effective on January 1, 2012.

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: Requires elections to fill legislative vacancies to be held on regular election dates; however gives the presiding officer discretion to call an election to fill a legislative vacancy on other dates if he determines a person may be elected and serve during a legislative session which occurs prior to the next regularly scheduled election dates.

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 Oct., when the special general election is held on the fourth Saturday after the second to last Saturday in Oct.

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

(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 Feb. 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 475,000 or more.

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

(5) The first Saturday in Feb. of an election year for parish and municipal officers in a parish containing a municipality with a population of 475,000 or more.

Proposed law removes the exemption in present law for elections to fill legislative office.

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.

Proposed law requires vacancies in legislative office to be filled at elections held on the regularly scheduled election dates in present law (R.S. 18:402(E)). However, when a legislative vacancy occurs and six months or more remains in the term and, in the discretion of the appropriate presiding officer, a person may be elected and serve during a legislative session which occurs prior to the next regularly scheduled election dates in present law (R.S. 18:402), proposed law provides that the presiding officer determine the dates of qualifying and of the primary and general elections in the same manner as provided in present law.

Effective Jan. 1, 2012.

(Amends R.S. 18:402(E)(intro. para.) and 601(A))

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on House and Governmental Affairs to the original bill.

1. Removes proposed law provisions relative to appointments to fill temporary vacancies in legislative offices.

2. Adds requirement that elections to fill vacant legislative offices be held on regularly scheduled election dates.

3. Provides an effective date of Jan. 1, 2012.

House Floor Amendments to the engrossed bill.

1. Provides that the presiding officer may determine non-regular election dates to fill a legislative vacancy when six months or more remains in the term and when, in the presiding officer's discretion, a person can be elected and serve during a legislative session which occurs prior to the next regularly scheduled election dates.

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