

A bill for an act

relating to elections; changing certain procedures and requirements related to vacancies in nomination; amending Minnesota Statutes 2010, section 204B.13, subdivisions 1, 2, by adding subdivisions; repealing Minnesota Statutes 2010, sections 204B.41; 204D.169.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2010, section 204B.13, subdivision 1, is amended to read:

Subdivision 1. **Death or withdrawal.** A vacancy in nomination may be filled in the manner provided by this section. A vacancy in nomination exists when:

~~(a) (1) a major political party candidate or nonpartisan candidate who was nominated at a primary whose name is to appear on the general election ballot dies or files an affidavit of withdrawal as provided in section 204B.12, subdivision 2a after the date of the state primary; or~~

~~(b) (2) a candidate for a nonpartisan office, for which one or two candidates filed, dies or files an affidavit of withdrawal as provided in section 204B.12, subdivision 1; or~~

(3) a major political party candidate for constitutional office whose name is to appear on the general election ballot or the candidate's legal guardian files an affidavit of vacancy at least one day prior to the general election with the same official who received the affidavit of candidacy that states that:

(i) the candidate has a catastrophic illness that was diagnosed after the deadline for withdrawal, as provided in section 204B.12, subdivision 1; and

(ii) the candidate's illness will permanently and continuously incapacitate the candidate and prevent the candidate from performing the duties of the office sought.

The affidavit must be accompanied by a certificate verifying that the candidate's illness meets the requirements of this clause, signed by at least two licensed physicians.

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Sec. 2. Minnesota Statutes 2010, section 204B.13, subdivision 2, is amended to read:

Subd. 2. ~~Partisan office; nomination by party.~~ (a) A vacancy in nomination for partisan office shall ~~be filled as provided in this subdivision~~ effectively remove that office from the ballot. Votes cast at the general election for that office are invalid and the office must be filled in a special election held in accordance with section 204D.17, except as provided by this section. Except for the vacancy in nomination, all other candidates whose names would have appeared on the general election ballot for this race must appear on the special election ballot for this race. There must not be a primary to fill the vacancy in nomination. A major political party has the authority to fill a vacancy in nomination of that party's candidate by filing ~~a~~ one nomination certificate with the same official who received the affidavits of candidacy for that office.

(b) A major political party may provide in its governing rules a procedure, including designation of an appropriate committee, to fill ~~vacancies~~ a vacancy in nomination for ~~all offices elected statewide~~ any federal or state office. The nomination certificate shall be prepared under the direction of and executed by the chair and secretary of the political party and filed within ~~seven~~ 14 days after the vacancy in nomination occurs ~~or before the 14th day before the general election, whichever is sooner. If the vacancy in nomination occurs through the candidate's death or catastrophic illness, the nomination certificate must be filed within seven days after the vacancy in nomination occurs but no later than four days before~~ but no later than seven days after the general election. The chair and secretary when filing the certificate shall attach an affidavit stating that the newly nominated candidate has been selected under the rules of the party and that the individuals signing the certificate and making the affidavit are the chair and secretary of the party.

Sec. 3. Minnesota Statutes 2010, section 204B.13, is amended by adding a subdivision to read:

Subd. 7. **Date of special election.** The special election must be held on the second Tuesday in January.

Sec. 4. Minnesota Statutes 2010, section 204B.13, is amended by adding a subdivision to read:

Subd. 8. **Absentee voters.** The county auditor shall transmit an absentee ballot for the special election under this section to each applicant for an absentee ballot whose application for an absentee ballot for the preceding general election was recorded under section 203B.04 or 203B.17. If the vacancy in nomination is filled before the general election, the county auditor shall mail the ballot no earlier than the date of the general

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3.1 election and no later than five days after the general election. If the vacancy in nomination
3.2 is filled after the general election, the county auditor must mail the ballot no later than five
3.3 days after the vacancy in nomination is filled.

3.4 Sec. 5. **REPEALER.**

3.5 Minnesota Statutes 2010, sections 204B.41; and 204D.169, are repealed.

204B.41 VACANCY IN NOMINATION; CHANGING BALLOTS.

When a vacancy in nomination occurs through the death or catastrophic illness of a candidate after the 16th day before the general election, the officer in charge of preparing the ballots shall prepare and distribute a sufficient number of separate paper ballots which shall be headed with the words "OFFICIAL SUPPLEMENTAL BALLOT." This ballot shall contain the title of the office for which the vacancy in nomination has been filled and the names of all the candidates nominated for that office. The ballot shall conform to the provisions governing the printing of other official ballots as far as practicable. The title of the office and the names of the candidates for that office shall be blotted out or stricken from the regular ballots by the election judges. The official supplemental ballot shall be given to each voter when the voter is given the regular ballot or is directed to the voting machine. Regular ballots shall not be changed nor shall official supplemental ballots be prepared as provided in this section during the six calendar days before an election. Absentee ballots that have been mailed prior to the preparation of official supplemental ballots shall be counted in the same manner as if the vacancy had not occurred. Both an official supplemental ballot and a replacement regular ballot from which the title of the office and names of the candidates for that office have been blotted out or stricken as provided in this section must be provided to each absentee voter or voter residing in a precinct voting by mail who requests either of them under section 203B.06, subdivision 3. The election judges conducting absentee voting in health care facilities as provided in section 203B.11, subdivision 1, must deliver official supplemental ballots and replacement regular ballots to those facilities no later than 5:00 p.m. on the day before the election.

204D.169 EXAMPLE SUPPLEMENTAL BALLOT.

When an official supplemental ballot must be used in a general election in accordance with section 204B.41, the secretary of state shall supply each auditor with a copy of an example supplemental ballot at least three days prior to the election. The example supplemental ballot must illustrate the format required for the official supplemental ballot.

The county auditor shall distribute copies of the example supplemental ballot to municipal and school district clerks in municipalities and school districts holding elections that year. The official supplemental ballot must conform in all respects to the example supplemental ballot. Failure of the official supplemental ballot to conform may be reported by any person to the county attorney in the same manner as provided by section 201.275.