

**SENATE**  
**STATE OF MINNESOTA**  
**EIGHTY-EIGHTH LEGISLATURE**

**S.F. No. 540**

(SENATE AUTHORS: REST, Eken and Sieben)

DATE	D-PG	OFFICIAL STATUS
02/18/2013	277	Introduction and first reading Referred to Rules and Administration See SF677, Art. 4

A bill for an act

1.1 relating to elections; modifying procedures related to vacancies in nomination  
 1.2 for partisan office; appropriating money; amending Minnesota Statutes 2012,  
 1.3 sections 204B.13, subdivisions 1, 2, 5, by adding subdivisions; 204D.19, by  
 1.4 adding a subdivision; repealing Minnesota Statutes 2012, sections 204B.12,  
 1.5 subdivision 2a; 204B.13, subdivision 6.  
 1.6

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

1.8 Section 1. Minnesota Statutes 2012, section 204B.13, subdivision 1, is amended to read:

1.9 Subdivision 1. ~~Death or withdrawal~~ **Partisan office.** (a) A vacancy in nomination  
 1.10 ~~may~~ for a partisan office must be filled in the manner provided by this section. A vacancy  
 1.11 in nomination exists for a partisan office when: ~~(1) a major political party candidate~~  
 1.12 ~~or nonpartisan candidate who was nominated at a primary dies or files an affidavit of~~  
 1.13 ~~withdrawal as provided in section 204B.12, subdivision 2a; or(2) a candidate for a~~  
 1.14 ~~nonpartisan office, for which one or two candidates filed;~~ who has been nominated in  
 1.15 accordance with section 204D.03, subdivision 3, or 204D.10, subdivision 1:

1.16 (1) dies;

1.17 (2) withdraws as provided in section 204B.12, subdivision 1; or

1.18 (3) withdraws by filing an affidavit of withdrawal, as provided in paragraph (b), at  
 1.19 least one day prior to the general election with the same official who received the affidavit  
 1.20 of candidacy.

1.21 (b) An affidavit of withdrawal filed under paragraph (a), clause (3), must state that  
 1.22 the candidate has been diagnosed with a catastrophic illness that will permanently and  
 1.23 continuously incapacitate the candidate and prevent the candidate from performing the  
 1.24 duties of the office sought, if elected. The affidavit must be accompanied by a certificate  
 1.25 verifying the candidate's illness meets the requirements of this paragraph, signed by at

2.1 least two licensed physicians. The affidavit and certificate may be filed by the candidate  
2.2 or the candidate's legal guardian.

2.3 Sec. 2. Minnesota Statutes 2012, section 204B.13, subdivision 2, is amended to read:

2.4 Subd. 2. **Partisan office; nomination by party; special election.** (a) ~~A vacancy in~~  
2.5 ~~nomination for partisan office shall be filled as provided in this subdivision. Except as~~  
2.6 ~~provided in subdivision 5, a major political party has the authority to~~ may fill a vacancy  
2.7 in nomination of that party's candidate as defined in subdivision 1, clause (1) or (3) by  
2.8 filing a one nomination certificate with the same official who received the affidavits of  
2.9 candidacy for that office.

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

2.23 (b) In the case of a vacancy in nomination for partisan office that occurs on or before  
2.24 the 79th day before the general election, the major political party must file the nomination  
2.25 certificate no later than 71 days before the general election. The name of the candidate  
2.26 nominated by the party must appear on the general election ballot.

2.27 (c) Except as provided in subdivision 5, in the case of a vacancy in nomination for  
2.28 a partisan office that occurs after the 79th day before the general election, the general  
2.29 election ballot shall remain unchanged, but the county and state canvassing boards must  
2.30 not certify the vote totals for that office from the general election, and the office must be  
2.31 filled at a special election held in accordance with this section. Except for the vacancy  
2.32 in nomination, all other candidates whose names appeared on the general election ballot  
2.33 for the office must appear on the special election ballot for the office. New affidavits of  
2.34 candidacy or nominating petitions may not be accepted, and there must not be a primary to  
2.35 fill the vacancy in nomination. The major political party may file a nomination certificate

3.1 as provided in paragraph (a), no later than seven days after the general election. On the  
 3.2 date of the general election, the county auditor or municipal clerk shall post a notice in  
 3.3 each precinct affected by a vacancy in nomination under this paragraph, informing voters  
 3.4 of the reason for the vacancy in nomination and the procedures for filling the vacancy in  
 3.5 nomination and conducting a special election as required by this section.

3.6 Sec. 3. Minnesota Statutes 2012, section 204B.13, is amended by adding a subdivision  
 3.7 to read:

3.8 Subd. 2a. **Partisan office; filing period.** A vacancy in nomination for a partisan  
 3.9 office due to a withdrawal of a candidate under section 204B.12, subdivision 1, may  
 3.10 be filled in the manner provided in sections 204B.06, 204B.09, and 204B.11, except  
 3.11 that all documents and fees required by those sections must be filed within five days  
 3.12 after the vacancy in nomination occurs. There must be a two-day period for withdrawal  
 3.13 of candidates after the last day for filing.

3.14 If there is more than one candidate at the end of the withdrawal period to fill  
 3.15 the vacancy in nomination, the candidates' names must appear on the primary ballot.  
 3.16 Otherwise, the candidate's name must appear on the general election ballot.

3.17 Sec. 4. Minnesota Statutes 2012, section 204B.13, subdivision 5, is amended to read:

3.18 Subd. 5. **Candidates for governor and lieutenant governor.** (a) If a vacancy in  
 3.19 nomination for a major political party occurs in the race for governor, the political party  
 3.20 must nominate the candidates for both governor and lieutenant governor. If a vacancy  
 3.21 in nomination for a major political party occurs in the race for lieutenant governor,  
 3.22 the candidate for governor ~~determined under this section~~ shall select the candidate for  
 3.23 lieutenant governor. ~~If a vacancy in nomination occurs in the race for lieutenant governor,~~  
 3.24 ~~due to a vacancy in nomination for governor or due to the withdrawal or death of the~~  
 3.25 ~~candidate for lieutenant governor, the candidate for governor shall select the candidate for~~  
 3.26 ~~lieutenant governor as provided in this subdivision.~~

3.27 (b) For a vacancy in nomination for lieutenant governor that occurs on or before the  
 3.28 16th ~~79th~~ day before the general election, the name of the lieutenant governor candidate  
 3.29 must be submitted by the governor candidate to the filing officer ~~within seven days after~~  
 3.30 ~~the vacancy occurs, or before the 14th day before the general election, whichever is sooner~~  
 3.31 ~~no later than 71 days before the general election.~~ If the vacancy in nomination occurs  
 3.32 ~~through the death or catastrophic illness of the candidate for lieutenant governor occurs~~  
 3.33 ~~after the 79th day before the general election,~~ the candidate for governor shall submit the  
 3.34 name of the new lieutenant governor candidate to the secretary of state within seven days

4.1 after the vacancy in nomination occurs but no later than four days before the general  
4.2 election. If the vacancy in nomination occurs through the death or catastrophic illness  
4.3 of the candidate for governor, the new candidate for governor shall submit the name of  
4.4 the lieutenant governor candidate within seven days after the vacancy in nomination for  
4.5 governor is filled under section 204B.13, subdivision 2, but no later than four days before  
4.6 the general election. occurs, but no changes may be made to the general election ballots.

4.7 Sec. 5. Minnesota Statutes 2012, section 204B.13, is amended by adding a subdivision  
4.8 to read:

4.9 Subd. 7. **Date of special election.** If a special election is required under this section,  
4.10 the governor shall issue a writ calling for a special election to be conducted on the second  
4.11 Tuesday in February of the year following the year the vacancy in nomination occurred.  
4.12 Except where otherwise provided in this section, the writ shall be issued and the special  
4.13 election conducted according to the requirements of sections 204D.22 to 204D.27.

4.14 Sec. 6. Minnesota Statutes 2012, section 204B.13, is amended by adding a subdivision  
4.15 to read:

4.16 Subd. 8. **Absentee voters.** At least 46 days, but no more than 50 days, before a  
4.17 special election conducted under this section, the county auditor shall transmit an absentee  
4.18 ballot for the special election to each applicant for an absentee ballot whose application  
4.19 for an absentee ballot for the preceding general election was recorded under section  
4.20 203B.04 or 203B.17. New applicants for an absentee ballot may be provided a ballot  
4.21 in the manner specified in chapter 203B.

4.22 Sec. 7. Minnesota Statutes 2012, section 204B.13, is amended by adding a subdivision  
4.23 to read:

4.24 Subd. 9. **Appropriation.** In the case of a statewide special election under this  
4.25 section, the amount necessary is appropriated to the secretary of state to cover costs  
4.26 incurred by the state, county, and municipal governments to conduct the special election.

4.27 Sec. 8. Minnesota Statutes 2012, section 204D.19, is amended by adding a subdivision  
4.28 to read:

4.29 Subd. 6. **Writ when vacancy results from vacancy in nomination.** If a vacancy in  
4.30 office is due to a vacancy in nomination under section 204B.13, the governor shall issue a  
4.31 writ in the manner provided in that section.

5.1       Sec. 9. **REPEALER.**

5.2               Minnesota Statutes 2012, sections 204B.12, subdivision 2a; and 204B.13,  
5.3 subdivision 6, are repealed.

5.4       Sec. 10. **EFFECTIVE DATE.**

5.5               Sections 1 to 9 are effective the day following final enactment and apply to vacancies  
5.6 in nomination occurring on or after that date.

**204B.12 WITHDRAWAL OF CANDIDATES.**

Subd. 2a. **After primary; candidates for constitutional office.** (a) A candidate for a constitutional office may withdraw from the general election ballot by filing an affidavit of withdrawal with the same official who received the affidavit of candidacy. The affidavit must request that official to withdraw that candidate's name from the ballot and must be filed no later than 16 days before the general election.

(b) A candidate for a constitutional office may withdraw after the deadline in paragraph (a) if:

(1) the candidate withdraws because of a catastrophic illness that was diagnosed after the deadline for withdrawal;

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

(3) the candidate or the candidate's legal guardian files with the affidavit of withdrawal a certificate verifying that the candidate's illness meets the requirements of clauses (1) and (2), signed by at least two licensed physicians.

**204B.13 VACANCY IN NOMINATION.**

Subd. 6. **Vacancy after deadline.** If a candidate withdraws after the 16th day before the general election but before four days before the general election, the secretary of state shall instruct the election judges to strike the name of the withdrawn candidate from the general election ballot and shall substitute no other candidate's name. Filing officers may not accept a nomination certificate for filing to fill a vacancy in nomination resulting from the filing of an affidavit of withdrawal by a candidate after the 14th day before the general election.