

STATE OF OKLAHOMA

1st Session of the 58th Legislature (2021)

COMMITTEE SUBSTITUTE
FOR

HOUSE BILL NO. 2173

By: Hilbert

COMMITTEE SUBSTITUTE

An Act relating to vacancies in office; amending 26 O.S. 2011, Section 12-101, as last amended by Section 1, Chapter 341, O.S.L. 2019 (26 O.S. Supp. 2020, Section 12-101) and 51 O.S. 2011, Section 10, which relate to procedures for filling vacancies; modifying procedure for filling vacancy in office of United States Senator; requiring certain appointment; providing for special elections; specifying certain duties of Governor; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 26 O.S. 2011, Section 12-101, as last amended by Section 1, Chapter 341, O.S.L. 2019 (26 O.S. Supp. 2020, Section 12-101), is amended to read as follows:

Section 12-101. A. Except as otherwise provided by law, whenever a vacancy shall occur in the office of a member of the ~~United States Senate or~~ United States House of Representatives from Oklahoma, such vacancy shall be filled at a Special Election to be

1 called by the Governor, who shall issue a Writ of Election within
2 thirty (30) days after such vacancy occurs.

3 B. No special election shall be called if such a vacancy occurs
4 in the office of a member of the United States Senate in an even-
5 numbered year if the term of the office expires the following year.
6 In such case, the candidate elected to the office at the regular
7 General Election shall be appointed by the Governor to fill the
8 unexpired term.

9 C. If such a vacancy occurs in the office of a member of the
10 United States House of Representatives in an even-numbered year, the
11 Regular Primary Election, Runoff Primary Election or General
12 Election for that office shall be deemed to also serve as a Special
13 Election to fill the unexpired term as designated by the Governor.
14 Within thirty (30) days after such vacancy occurs, the Governor
15 shall issue a Writ of Election declaring the same, and the candidate
16 elected at the Regular Election shall be deemed to have also been
17 elected at a Special Election to fill the unexpired term.

18 D. The proclamation required by Section 12-102 of this title
19 shall serve as the Writ of Election described in this section.

20 E. Whenever a vacancy shall occur in the office of a member of
21 the United States Senate from Oklahoma, such vacancy shall be filled
22 as provided in subsection C of Section 10 of Title 51 of the
23 Oklahoma Statutes. The special election called by the Governor
24 shall be subject to the following provisions:

1 1. If the vacancy occurs in an odd-numbered year and the vacant
2 office is not scheduled to be filled for a full term at the
3 regularly scheduled elections to be held the following year, the
4 special Primary, Runoff Primary and General Elections shall be held
5 concurrently with the regularly scheduled statewide regular Primary,
6 Runoff Primary and General Elections in the following year;

7 2. If the vacancy occurs in an even-numbered year and the
8 vacant office is not scheduled to be filled for a full term at the
9 regularly scheduled elections held during that year, the special
10 Primary, Runoff Primary and General Elections shall be held
11 concurrently with the regularly scheduled statewide Primary, Runoff
12 Primary and General Elections in the next even-numbered year;

13 3. If the vacancy occurs in an odd-numbered year and the vacant
14 office is scheduled to be filled for a full term at the regularly
15 scheduled elections to be held the following year, no special
16 election shall be called. In such case, the candidate elected to
17 the office at the regularly scheduled statewide elections shall be
18 deemed to also have been elected to fill the vacancy and shall be
19 eligible to assume the office upon the official certification of the
20 election by the State Election Board; and

21 4. If the vacancy occurs in an even-numbered year and the
22 vacant office is scheduled to be filled for a full term at the
23 regularly scheduled elections to be held during that year, no
24 special election shall be called. In such case, the candidate

1 electd to the office at the regularly scheduled statewide elections
2 shall be deemed to also have been elected to fill the vacancy and
3 shall be eligible to assume the office upon the official
4 certification of the election by the State Election Board.

5 SECTION 2. AMENDATORY 51 O.S. 2011, Section 10, is
6 amended to read as follows:

7 Section 10. A. All vacancies in state offices, except in
8 offices of the members of the Legislature, and members of the House
9 of Representatives from Oklahoma in the Congress of the United
10 States of America ~~and members of the Senate of the United States of~~
11 ~~America~~, shall be filled by appointment by the Governor.

12 B. When a vacancy occurs in the office of district judge,
13 associate district judge, or judge of any intermediate appellate
14 court, the Governor shall, in filling such vacancy, utilize the
15 services of the Judicial Nominating Commission in the manner as
16 provided for in the filling of judicial offices under Section 4,
17 Article ~~7B~~ VII-B of the Oklahoma Constitution.

18 C. When a vacancy occurs in the office of a member of the
19 United States Senate from Oklahoma, the Governor shall, within
20 thirty (30) days of occurrence of the vacancy:

21 1. Appoint a person to hold such office until a successor is
22 elected, with the advice and consent of the Oklahoma State Senate,
23 from a list of at least three eligible nominees submitted by the
24 Speaker of the Oklahoma House of Representatives; and

1 2. Call a special election to fill such vacancy, as provided in
2 Section 12-101 of Title 26 of the Oklahoma Statutes, unless the
3 vacancy occurs in an even-numbered year and the term of the vacant
4 office expires in January of the following year.

5 For purposes of this subsection, "eligible nominee" means a person
6 qualified to hold the office, who has been an eligible voter in
7 Oklahoma of the same political party of the predecessor for at least
8 the last five (5) years preceding the date that the vacancy
9 occurred. The Oklahoma State Senate may convene in special session
10 for the purpose of the confirmation or may consider the eligible
11 nominee in regular session. The events described in this subsection
12 may all occur on the same day. If the Oklahoma State Senate rejects
13 the appointment of the Governor, the Speaker of the Oklahoma House
14 of Representatives shall submit an additional eligible nominee.

15 ~~B.~~ D. All vacancies in county offices except the board of
16 county commissioners or except for any elective county office of any
17 county in the State of Oklahoma having a population of more than six
18 hundred thousand (600,000), according to the latest Federal
19 Decennial Census shall be filled by appointment by the board of
20 county commissioners. If such an appointment is made prior to the
21 prescribed filing period for county officers in accordance with the
22 provisions of Section 131 of Title 19 of the Oklahoma Statutes, the
23 county commissioners shall, at the time ~~said~~ the appointment is
24 made, proclaim a special election to fill the balance of the

1 unexpired term, providing the balance of the term does not expire in
2 the year following the next succeeding general election. In making
3 the proclamation, the county commissioners shall establish the dates
4 for the filing period, primary election, runoff primary election and
5 general election to be the same as the next succeeding filing
6 period, primary election, runoff primary election and general
7 election for county officers. The appointee shall be eligible to
8 become a candidate at ~~said~~ the special election, providing ~~said~~ the
9 appointee is otherwise qualified. The office to be filled shall be
10 printed on the same ballot as other county offices.

11 SECTION 3. It being immediately necessary for the preservation
12 of the public peace, health or safety, an emergency is hereby
13 declared to exist, by reason whereof this act shall take effect and
14 be in full force from and after its passage and approval.

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