

Regular Session, 2014

HOUSE BILL NO. 857

BY REPRESENTATIVE BROADWATER

ELECTIONS/SPECIAL: Provides relative to the filling of vacancies in certain local and municipal offices

1 AN ACT

2 To amend and reenact R.S. 18:602(E)(1), (2)(a), and (4) and to repeal R.S. 13:2583(F) and
3 R.S. 42:373, relative to vacancies in certain local and municipal offices; to provide
4 for the filling of such vacancies; to provide relative to the appointment of a person
5 to fill such a vacancy under certain circumstances; to provide relative to the election
6 of a person to fill such a vacancy under certain circumstances; and to provide for
7 related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 18:602(E)(1), (2)(a), and (4) are hereby amended and reenacted to
10 read as follows:

11 §602. Vacancies in certain local and municipal offices; exceptions

12 * * *

13 E.(1)(a) If the unexpired term of an office covered by Subsection A of this
14 Section is eighteen months or less, the person appointed to fill the vacancy or
15 designated to assume the duties of the office shall serve for the remainder of the
16 unexpired term.

17 (b) If the unexpired term of an office covered by Subsection ~~A~~, B; or C of
18 this Section is one year or less, the person appointed to fill the vacancy or designated
19 to assume the duties of the office shall serve for the remainder of the unexpired term.

1 ~~(b)~~ (c) If any member of a parish or city school board is removed or
2 suspended from office pursuant to the provisions of R.S. 42:1411, except in the
3 parish of Jefferson, the person appointed to fill the vacancy or to perform the official
4 acts, duties, and functions of that office during the period of suspension shall be
5 eligible in the next election as a candidate for the office to which he is appointed.

6 ~~(c)~~ (d) If a sheriff is removed or suspended from office pursuant to the
7 provisions of R.S. 42:1411 or 1412 and a person is appointed to assume the duties
8 of the office pursuant to Subparagraph (C)(2)(b) of this Section, the person so
9 appointed shall be eligible in the next election as a candidate for the office to which
10 he is appointed.

11 (2)(a) If the unexpired term of an office covered by Subsection A of this
12 Section exceeds eighteen months or the unexpired term of an office covered by
13 Subsection B or C of this Section exceeds one year, the governing authority of the
14 local governmental subdivision in which the vacancy occurs, or the school board
15 when the vacancy occurs in its membership, or the governor when a vacancy occurs
16 in the office of district attorney or in an office for which there is not a single
17 governing authority or as provided in Subsection F of this Section, within twenty
18 days after the vacancy occurs, shall issue a proclamation ordering a special election
19 to fill the vacancy and shall specify in the proclamation, in accordance with R.S.
20 18:402, the dates on which the primary and general elections shall be held and, in
21 accordance with R.S. 18:467, 467.1, and 468, the dates of the qualifying period for
22 candidates in the special election. However, if the deadline for issuing the
23 proclamation falls on a Saturday, Sunday, or other legal holiday, then the next day
24 which is not a Saturday, Sunday, or legal holiday shall be deemed to be the final day
25 for issuing such proclamation. In selecting the dates for such special elections, the
26 governing authority or school board as the case may be, may choose a gubernatorial
27 or congressional election date, if such date is available within eighteen months of the
28 occurrence of the vacancy for an office covered by Subsection A of this Section or
29 within a year of the occurrence of the vacancy for an office covered by Subsection

1 B or C of this Section or may select an election date in accordance with R.S. 18:402.
2 In the cases in which the governor has the authority to select the date for such special
3 elections, the governor shall first choose a gubernatorial or congressional election
4 date. If no such date is available within eighteen months of the occurrence of the
5 vacancy for an office covered by Subsection A of this Section or within a year of the
6 occurrence of the vacancy for an office covered by Subsection B or C of this Section,
7 the governor shall then select an election date in accordance with R.S. 18:402. If the
8 governing authority or school board fails to issue the proclamation within twenty
9 days after the vacancy occurs, the governor shall issue the proclamation.

* * *

11 (4) If the unexpired term of a parish or municipal office covered by
12 Subsection A of this Section is ~~one year~~ eighteen months or more, but the vacancy
13 occurs within ~~one year~~ eighteen months of the regularly scheduled primary election
14 for that office, no special election will be called, and the appointee shall serve for the
15 remainder of the term of office.

* * *

17 Section 2. R.S. 13:2583(F) and R.S. 42:373 are hereby repealed in their entirety.
18 Section 3. This Act shall become effective upon signature by the governor or, if not
19 signed by the governor, upon expiration of the time for bills to become law without signature
20 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
21 vetoed by the governor and subsequently approved by the legislature, this Act shall become
22 effective on the day following such approval.

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)]

Broadwater

HB No. 857

Abstract: Provides relative to the filling of vacancies for certain local and municipal offices.

Present law (R.S. 18:602(A)) provides that when a vacancy occurs in the office of a member of a parish or municipal governing authority or a combination thereof, a mayor, or any other

local or municipal office, except an office covered by present law (R.S. 18:602(B) and (C)) and except the office of judge, state legislator, or marshal of a city or municipal court, and the office is filled by election wholly within the boundaries of a local governmental subdivision, the governing authority of the local governmental subdivision where the vacancy occurs shall within 20 days appoint a person to fill the vacancy who meets the qualifications of the office.

Proposed law retains present law.

Present law provides that if the unexpired term of an office covered by present law is one year or less, the person appointed to fill the vacancy or designated to assume the duties of the office shall serve for the remainder of the unexpired term.

Proposed law provides that the appointed or designated person serves the remainder of the term if the unexpired term of the office is 18 months or less, instead of one year or less.

Present law provides for calling a special election to fill a vacancy in an office covered by present law (R.S. 18:602(A)) when the unexpired term exceeds one year. Provides procedures and requirements for selecting the election date. Provides for the selection of certain election dates when they occur within one year of the occurrence of the vacancy.

Present law provides for calling a special election to fill the vacancy when the unexpired term exceeds 18 months, instead of when the term exceeds one year. Provides for the selection of certain election dates provided in present law when those dates occur within 18 months of the occurrence of the vacancy. Otherwise retains present law.

Present law (R.S. 13:2583) provides relative to officers of justice of the peace courts. Provides that when a vacancy occurs in the office of constable or marshal and the unexpired term of the office is one year or less, the chief deputy shall assume such position and duties and shall serve for the remainder of the unexpired term. Provides, however, that in those cases where there is no such person to assume the duties when the vacancy occurs, the appropriate governing authority shall within 10 days, appoint a person having the qualifications of the office to assume the duties of the office for the remainder of the unexpired term. Provides that if the unexpired term exceeds one year, the chief deputy or, if no such person, the person appointed, shall assume such duties and position and shall serve until the successor is elected and takes office.

Proposed law repeals present law.

Present law (R.S. 42:373) provides that when a vacancy is caused by death, resignation, or removal, or otherwise of any officer of the state of La., of any parish, district or any sub-division of the state, it shall be filled by election, provided that the said office is, by law, made elective by the people, and further provided that the unexpired term is for a longer period than one year. Provides that the election to fill the vacancy shall be ordered by the proper legal authority within the least possible delay under the general election laws of the state.

Proposed law repeals present law.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 18:602(E)(1), (2)(a), and (4); Repeals R.S. 13:2583(F) and R.S. 42:373)