

Regular Session, 2011

SENATE BILL NO. 47

BY SENATOR PETERSON

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

ELECTION CODE. Provides for the calling of a special election to fill an anticipated judicial vacancy when the current holder of the judgeship has been elected to another office.  
(gov sig)

1 AN ACT

2 To amend and reenact R.S. 18:581(3) and 621(A)(1), relative to the Election Code; to  
3 provide for the filling of a vacancy in the office of a judge when the officeholder has  
4 been elected to another elective office but remains in office until the term of the  
5 other elective office commences; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 18:581(3) and 621(A)(1) are hereby amended and reenacted to read  
8 as follows:

9 §581. Definitions

10 As used in this Title:

11 \* \* \*

12 (3) "Vacancy" occurs in an elective office when any of the following  
13 occurs:

14 (a) The ~~when the~~ office is or will be unoccupied by reason of the death of the  
15 official who was elected to the office, or by reason of his retirement or resignation;

16 (b) Removal ~~removal~~ from office by any means;

17 (c) Failure ~~failure~~ to take office for any reason, or when it becomes certain

1 that the person elected to the office will not take the office on the day when the term  
2 for which he was elected commences,~~or when the,~~

3 **(d) The** person elected to or holding the office no longer meets the residence  
4 or domicile requirements of that office, any declaration of retention of domicile to  
5 the contrary notwithstanding,~~or when an,~~

6 **(e) An** office is created due to a reclassification of a municipality.

7 **(f) In the office of a judge, when the officeholder is elected to another**  
8 **elective office although the judgeship held at the time of the election to the other**  
9 **elective office will not be vacated until the term of office of the other elective**  
10 **office commences or at such earlier time as provided for by law.**

11 \* \* \*

12 §621. Vacancy in office of judge

13 A.(1) Within twenty-four hours after having knowledge of a vacancy in the  
14 office of a judge, including a vacancy by reason of a newly created judgeship **or the**  
15 **election of the officeholder to another elective office**, the supreme court shall give  
16 written notice to the governor that the vacancy exists, the date on which it occurred,  
17 and the cause thereof.

18 \* \* \*

19 Section 2. This Act shall become effective upon signature by the governor or, if not  
20 signed by the governor, upon expiration of the time for bills to become law without signature  
21 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
22 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
23 effective on the day following such approval.

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The original instrument and the following digest, which constitutes no part  
of the legislative instrument, were prepared by Alden A. Clement, Jr.

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DIGEST

Present law provides that a "vacancy" occurs in an elective office under the following  
circumstances:

- (1) When the office is or will be unoccupied by reason of the death of the official who  
was elected to the office, or by reason of the official's retirement or resignation.

- (2) By reason of the official's removal from office by any means.
- (3) By reason of the official's failure to take office for any reason, or when it becomes certain that the person elected to the office will not take the office on the day when the term for which he was elected commences.
- (4) When the person elected to or holding the office no longer meets the residence or domicile requirements of that office, any declaration of retention of domicile to the contrary notwithstanding.
- (5) When an office is created due to a reclassification of a municipality.

Proposed law retains present law, and adds that a "vacancy" occurs in the office of a judge when the officeholder is elected to another elective office although the judgeship held at the time of the election to the other elective office will not be vacated until the term of office of the other elective office commences, or at such earlier time as provided for by present law.

Present law provides that, within 24 hours after having knowledge of a vacancy in the office of a judge, including a vacancy by reason of a newly created judgeship, the supreme court is to give written notice to the governor that the vacancy exists, the date on which it occurred, and the cause of the vacancy.

Proposed law retains present law, and adds as a specific example of "a vacancy in the office of a judge" that a judge has been elected to another elective office.

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

(Amends R.S. 18:581(3) and 621(A)(1))