

HOUSE BILL NO. HB0142

Vacancies in elected office.

Sponsored by: Representative(s) Harshman and Schwartz and
Senator(s) Driskill

A BILL

for

1 AN ACT relating to elections; amending procedures for
2 filling vacancies in specified federal and state offices;
3 requiring special elections as specified; making conforming
4 amendments; repealing obsolete provisions; and providing
5 for an effective date.

6

7 *Be It Enacted by the Legislature of the State of Wyoming:*

8

9 **Section** **1.** W.S. 9-1-212, 9-1-802(e),
10 22-2-101(a)(iii), 22-2-110(a), 22-2-111(a), 22-18-103,
11 22-18-105 through 22-18-109, 22-18-111(a)(intro) and
12 (iii)(intro) and 28-1-106 are amended to read:

13

1 **9-1-212. Vacancy in office of governor; term of**
2 **successor; when election held to fill unexpired term;**
3 **requirements of elections; term of person elected.**

4
5 Whenever the powers and duties of the office of the
6 governor of the state of Wyoming devolve upon any other
7 person as provided in W.S. 9-1-211(a), the person acting as
8 governor shall continue to act as governor until the end of
9 the term of the governor if the office is assumed less than
10 sixty (60) days before the next general election. If the
11 office is assumed more than sixty (60) days before a
12 general election the person acting as governor shall ~~issue~~
13 ~~an additional proclamation calling for the election of a~~
14 ~~governor to fill the unexpired term, which election shall~~
15 ~~take place at the same time as the general election, and~~
16 ~~the election, together with the returns and canvass~~
17 ~~thereof, shall be conducted in all respects as though it~~
18 ~~was an original election for governor. When the state~~
19 ~~canvassing board canvasses the vote of the election and~~
20 ~~declares a person at the election to be elected as~~
21 ~~governor, the person~~ call for a special election as
22 provided in W.S. 22-18-103 through 22-18-109. The candidate
23 issued a certificate of election pursuant to W.S. 22-18-109

1 shall, within thirty (30) days after the ~~canvass~~issuance
2 of the certificate, or as soon thereafter as possible,
3 qualify and assume the duties and powers of governor, and
4 shall be the governor of the state of Wyoming for the
5 remainder of the unexpired term of the governor.

6

7 **9-1-802. Election; term; qualifications; full-time;**
8 **private practice prohibited; exception; salary; vacancies.**

9

10 (e) A vacancy in the office of district attorney
11 shall be filled by the board or boards of county
12 commissioners under the procedure for filling vacancies in
13 the office of a member of the state legislature or state
14 senator established by W.S. ~~22-18-111~~22-18-111(a)(iii)(A)
15 through (D). Vacancies shall be filled until the next
16 general election and the appointee shall be qualified
17 pursuant to subsections (b) and (c) of this section.

18

19 **22-2-101. Applicability and construction of Election**
20 **Code generally.**

21

22 (a) Chapters 1 through 28 of this Election Code apply
23 to the following elections:

1

2 (iii) Special elections to fill vacancies ~~in the~~
3 ~~office of representative in congress~~ under W.S. 22-18-103
4 through 22-18-109, provided that the provisions of W.S.
5 22-18-103 through 22-18-109 shall control if inconsistent
6 with chapters 1 through 28 of this Election Code;

7

8 **22-2-110. Computing periods of time.**

9

10 (a) Except for special elections to fill vacancies
11 ~~for a congressman~~ under W.S. ~~22-18-105~~ 22-18-103 through
12 22-18-109, periods of time are computed by excluding the
13 specific day and counting the prescribed number of days,
14 including Saturdays, Sundays and full legal holidays. If
15 the first day of a time period falls on a Saturday, Sunday
16 or full legal holiday, the preceding day which is not a
17 Saturday, Sunday or full legal holiday shall be used. If
18 the last day of a time period falls on a Saturday, Sunday
19 or full legal holiday, the next day which is not a
20 Saturday, Sunday or full legal holiday shall be used. All
21 days, except the specific day, but including the last day,
22 shall be used to compute the time limits established under
23 W.S. ~~22-18-105~~ 22-18-103 through 22-18-109 unless the last

1 day of a time period falls on a Saturday, Sunday or full
2 legal holiday in which case the next day which is not a
3 Saturday, Sunday or full legal holiday shall be used.

4

5 **22-2-111. Employees time off to vote.**

6

7 (a) Any person entitled to vote at any primary or
8 general election or special election to fill a vacancy ~~in~~
9 ~~the office of representatives in the congress of the United~~
10 ~~States under W.S. 22-18-103 through 22-18-109~~ is, on the
11 day of such election, entitled to absent himself from any
12 service or employment in which he is then engaged or
13 employed for a period of one (1) hour, other than meal
14 hours, the hour being at the convenience of the employer,
15 between the time of opening and closing of the polls. Such
16 elector shall not, because of so absenting himself, lose
17 any pay, providing he actually casts his legal vote.

18

19 **22-18-103. Filling vacancies in federal and state**
20 **offices; generally.**

21

22 A vacancy in the office of United States senator,
23 representative in congress, member of the state legislature

1 or an elected state official shall be filled ~~for the~~
2 ~~unexpired term at a special election called for the purpose~~
3 ~~by the governor, provided the vacancy does not occur within~~
4 ~~six (6) months of the next general election~~ as provided in
5 W.S. 22-18-103 through 22-18-109. For purposes of W.S.
6 22-18-103 through 22-18-109, "vacated office" means an
7 office specified in this section.

8
9 **22-18-105. Filling vacancy of congressman; whether**
10 **filled at general or special election; procedure.**

11
12 (a) If the ~~Except for temporary appointments in W.S.~~
13 22-18-111, a vacancy ~~in the office of representative in~~
14 ~~congress that~~ occurs within ~~six (6) months prior to the~~
15 ~~next general election, the vacancy~~ the following time
16 period shall be filled at the general election: ~~Otherwise~~

17
18 (i) Six (6) months of the next general election
19 for the office of United States senator or representative
20 in congress;

21
22 (ii) Three (3) months of the next general
23 election for the office of a member of the state

1 legislature, secretary of state, state auditor, state
2 treasurer or superintendent of public instruction;

3

4 (iii) Sixty (60) days of the next general
5 election for the office of governor.

6

7 (b) A vacancy that occurs outside the time period
8 specified in subsection (a) of this section shall be filled
9 for the unexpired term at a special election. Unless the
10 Tuesday falls on a full legal holiday, the special election
11 shall occur on the first Tuesday next following the:

12

13 (i) Eighty-ninth day after the vacancy occurs,
14 ~~unless that~~ for the office of United States senator or
15 representative in congress;

16

17 (ii) Thirty-ninth day after the vacancy occurs
18 for the office of a member of the state legislature,
19 secretary of state, state auditor, state treasurer or
20 superintendent of public instruction;

21

22 (iii) Twenty-ninth day after the vacancy occurs
23 for the office of governor.

1

2 (c) If the Tuesday falls on a full legal holiday, ~~in~~
3 ~~which case~~ the special election shall occur on the next
4 Tuesday which is not a full legal holiday.

5

6 (d) The governor or acting governor pursuant to W.S.
7 9-1-211 and 9-1-212 shall declare ~~the a~~ vacancy and issue
8 ~~the a~~ writ of election within five (5) days after the
9 vacancy occurs. The writ shall be issued to the county
10 clerk of each county voting for the office and to the
11 secretary of state. The writ shall specify the day of the
12 election.

13

14 **22-18-106. Filling vacancies in federal and state**
15 **offices; nominations.**

16

17 An elector qualified to hold ~~the a vacated~~ office of
18 ~~representative in congress shall may~~ be nominated by ~~the~~
19 ~~state central committee of the respective parties to fill a~~
20 ~~vacancy for the unexpired term of that office~~ filing a
21 signed petition in substantially the form specified in W.S.
22 22-5-301(a). Nominations ~~from such parties~~ shall be filed
23 with the secretary of state and fees paid within seven (7)

1 days after the vacancy is officially declared. ~~Independent~~
2 ~~candidates shall file an application and pay the filing fee~~
3 ~~with the secretary of state within seven (7) days after the~~
4 ~~vacancy is officially declared.~~

5

6 **22-18-107. Filling vacancies in federal and state**
7 **offices; certification of candidates.**

8

9 Within five (5) days after the end of the candidate filing
10 period specified in W.S. 22-18-106, the secretary of state
11 shall certify to the clerks of counties voting to fill the
12 vacancy the name of each candidate qualified to appear on
13 the ballot, and ~~his~~ the candidate's party affiliation or
14 independent status, if declared.

15

16 **22-18-108. Filling vacancies in federal and state**
17 **offices; party requirements.**

18

19 A candidate for the unexpired term of ~~the~~ a vacated office
20 ~~of representative in congress~~ may seek election only as a
21 candidate of the political party in which ~~he~~ the candidate
22 was registered on the date the vacancy occurred. A
23 candidate for the unexpired term of a vacated office ~~of~~

1 ~~representative in congress~~ who was not registered with a
2 party on the date the vacancy occurred may run only as an
3 independent.

4

5 **22-18-109. Conduct of special election; preparation**
6 **of ballot.**

7

8 A special election to fill a vacancy shall be conducted by
9 the county clerk as nearly as possible in the manner of a
10 general election. ~~The county clerk shall have twelve (12)~~
11 ~~days to prepare the special election ballot after the~~
12 ~~secretary of state's certification under W.S. 22-18-107.~~
13 The candidate who receives a plurality of the votes at a
14 special election shall be issued a certificate of election
15 as provided by law.

16

17 **22-18-111. Vacancies in other offices; temporary**
18 **appointments.**

19

20 (a) Any vacancy in any other elective office in the
21 state except ~~representative in congress or the offices~~
22 ~~specified in W.S. 22-18-103~~ or the board of trustees of a
23 school or community college district, shall be filled by

1 the governing body, or as otherwise provided in this
2 section, by appointment of a temporary successor. The
3 person appointed shall serve until a successor for the
4 remainder of the unexpired term is elected at the next
5 general election and takes office on the first Monday of
6 the following January. ~~Provided~~Except as provided in W.S.
7 22-18-105, if a vacancy in a four (4) year term of office
8 occurs in the term's second or subsequent years after the
9 first day for filing an application for nomination pursuant
10 to W.S. 22-5-209, no election to fill the vacancy shall be
11 held and the temporary successor appointed shall serve the
12 remainder of the unexpired term. The following apply:

13

14 (iii) Notwithstanding W.S. 22-18-103 through
15 22-18-109, if a vacancy occurs in the office of a member of
16 the state legislature not more than forty-five (45) days
17 before the first day of the general or budget session of
18 the legislature:

19

20 **28-1-106. Resignation of office.**

21

22 (a) Resignation of the office of a member of the
23 senate or house of representatives shall be made to the

1 governor, who shall immediately notify the following of the
2 resignation:

3

4 (i) The secretary of state who shall notify the
5 county clerks of the counties in which the legislative
6 district is located;

7

8 (ii) The presiding officer of the house of which
9 the person is a member;

10

11 (iii) If the resignation occurs in the time
12 periods specified in W.S. 22-18-111(a)(iii), the state
13 central committee of the party which the member represented
14 at the time of ~~his~~ election under W.S. 22-6-120(a)(vii), or
15 at the time of ~~his~~ appointment if not elected to office, ~~;~~
16 ~~of the resignation.~~ If the resigning member did not
17 represent a political party at the time of ~~his~~ election, or
18 at the time of ~~his~~ appointment if not elected to office,
19 the governor shall notify the appropriate boards of county
20 commissioners who shall proceed in accordance with W.S.
21 22-18-111(a)(iii)(C).

22

1 **(b)** For purposes of this section a person shall be
2 considered to "represent" a political party if ~~he~~the
3 person was a nominee of that political party when elected
4 to office or when appointed to fill a vacancy in office.

5

6 **Section 2.** W.S. 22-18-104 and 22-18-111(a)(i) are
7 repealed.

8

9 **Section 3.** This act is effective immediately upon
10 completion of all acts necessary for a bill to become law
11 as provided by Article 4, Section 8 of the Wyoming
12 Constitution.

13

14

(END)