

TERRY E. BRANSTAD  
GOVERNOR

**OFFICE OF THE GOVERNOR**

KIM REYNOLDS  
LT. GOVERNOR

May 10, 2017

The Honorable Paul Pate  
Secretary of State of Iowa  
State Capitol Building  
LOCAL

Dear Mr. Secretary:

I hereby transmit:

Senate File 399, an Act relating to the conduct of elections, including general election ballot vacancies, voter registration, elections administration, absentee voting, and vacancies on school boards and merged area governing boards and including effective date and applicability provisions.

The above Senate File is hereby approved this date.

Sincerely,

A handwritten signature in black ink that reads "Terry E. Branstad".

Terry E. Branstad  
Governor

cc: Secretary of the Senate  
Clerk of the House



Senate File 399

AN ACT

RELATING TO THE CONDUCT OF ELECTIONS, INCLUDING GENERAL ELECTION BALLOT VACANCIES, VOTER REGISTRATION, ELECTIONS ADMINISTRATION, ABSENTEE VOTING, AND VACANCIES ON SCHOOL BOARDS AND MERGED AREA GOVERNING BOARDS AND INCLUDING EFFECTIVE DATE AND APPLICABILITY PROVISIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I

CANDIDATE WITHDRAWAL

Section 1. Section 43.78, Code 2017, is amended by adding the following new subsection:

NEW SUBSECTION. 5. Any candidate nominated to fill a vacancy in accordance with this section may withdraw the candidate's nomination by a written request filed as follows:

*a.* In the office of the state commissioner, at least seventy-four days before the date of the election.

*b.* In the office of the proper commissioner, at least sixty-four days before the date of the election.

*c.* In the office of the state commissioner, in case of a special election to fill vacancies in Congress or the general assembly, not more than:

(1) Twenty days after the date on which the governor issues the call for a special election to be held on at least forty days' notice.

(2) Five days after the date on which the governor issues the call for a special election to be held on at least ten but less than forty days' notice.

*d.* In the office of the proper commissioner or the state commissioner, as applicable, in case of a special election to fill vacancies, at least twenty-five days before the day of election.

## DIVISION II

### VOTER REGISTRATION

Sec. 2. Section 48A.27, subsection 2, paragraph a, subparagraph (1), Code 2017, is amended to read as follows:

(1) A signed, written notice to the county commissioner in person, by mail, ~~by facsimile,~~ or by electronic mail submission.

## DIVISION III

### ELECTIONS ADMINISTRATION GENERALLY

Sec. 3. Section 49.16, subsection 5, Code 2017, is amended to read as follows:

5. A person shall not serve on the precinct election board as a representative of a political party if the person has changed political party affiliation from that of the political party which selected the person to serve as a precinct election official. If a precinct election official records a change of political party, the official's name shall be removed from the list of precinct election officials for that political party. The chairperson of the political party shall be notified of the vacancy and may designate a replacement. If the chairperson of another political party later designates the person as a precinct election official, the person may serve, if qualified. If a precinct election official serving on the board as a representative of a political party records a change of political party to vote absentee under chapter 53 and after voting absentee records a change of political party back to

the political party the official represents on the precinct election board, the official's name shall be removed from the list of precinct election officials for that election. The chairperson of the political party shall be notified of the vacancy and may designate a replacement for that election.

Sec. 4. Section 49.104, subsection 7, Code 2017, is amended to read as follows:

7. Any person authorized by the commissioner, in consultation with the secretary of state, for the purposes of conducting and attending educational voting programs ~~for youth.~~

#### DIVISION IV

#### ABSENTEE VOTING

Sec. 5. Section 53.8, subsection 3, paragraph a, Code 2017, is amended to read as follows:

a. When an application for an absentee ballot is received by the commissioner of any county from a registered voter who is a patient in a hospital in that county, a tenant of an assisted living program in that county as shown by the list of certifications provided the commissioner under section 231C.21, or a resident of any facility in that county shown to be a health care facility by the list of licenses provided the commissioner under section 135C.29, the absentee ballot shall be delivered to the voter and returned to the commissioner in the manner prescribed by section 53.22. For purposes of this paragraph, "assisted living program" means a program certified pursuant to section 231C.3 that meets the standards for a dementia-specific assisted living program, as established by rule by the department of inspections and appeals.

Sec. 6. Section 53.22, Code 2017, is amended to read as follows:

#### 53.22 Balloting by confined persons.

1. For purposes of this section, "assisted living program" means a program certified pursuant to section 231C.3 that meets the standards for a dementia-specific assisted living program, as established by rule by the department of inspections and appeals.

~~1.~~ 2. a. (1) A registered voter who has applied for an absentee ballot, in a manner other than that prescribed by section 53.10 or 53.11, and who is a resident, tenant, or

patient in a health care facility, assisted living program, or hospital located in the county to which the application has been submitted shall be delivered the appropriate absentee ballot by two special precinct election officers, one of whom shall be a member of each of the political parties referred to in section 49.13, who shall be appointed by the commissioner from the election board panel for the special precinct established by section 53.20. The special precinct election officers shall be sworn in the manner provided by section 49.75 for election board members, shall receive compensation as provided in section 49.20, and shall perform their duties during the ten calendar days after the ballots are printed if the commissioner so elects, during the fourteen calendar days preceding the election, and on election day if all ballots requested under section 53.8, subsection 3, have not previously been delivered and returned.

(2) If materials are prepared for the two special precinct election officials, a list shall be made of all voters to whom ballots are to be delivered. The list shall be sent with the officials who deliver the ballots and shall include spaces to indicate whether the person was present at the hospital, assisted living program, or health care facility when the officials arrived, whether the person requested assistance from the officials, whether the person was assisted by another person of the voter's choice, the time that the ballot was returned to the officials, and any other notes the officials deem necessary.

(3) The officials shall also be issued a supply of extra ballots to replace spoiled ballots. Receipts shall be issued in substantially the same form as receipts issued to precinct election officials pursuant to section 49.65. All ballots shall be accounted for and shall be returned to the commissioner. Separate envelopes shall be provided for the return of spoiled ballots and unused ballots.

*b.* If an applicant under this subsection notifies the commissioner that the applicant will not be available at the health care facility, assisted living program, or hospital address at any time during the ten-day period after the ballots are printed, if applicable, or during the fourteen-day period

immediately prior to the election, but will be available there at some other time prior to the election or on election day, the commissioner shall direct the two special precinct election officers to deliver the applicant's ballot at an appropriate time preceding the election or on election day. If a person who so requested an absentee ballot has been dismissed from the health care facility or hospital, or is no longer a tenant of the assisted living program, the special precinct election officers may take the ballot to the voter if the voter is currently residing in the county.

c. The special precinct election officers shall travel together in the same vehicle and both shall be present when an applicant casts an absentee ballot. If either or both of the special precinct election officers fail to appear at the time the duties set forth in this section are to be performed, the commissioner shall at once appoint some other person, giving preference to persons designated by the respective county chairpersons of the political parties described in section 49.13, to carry out the requirements of this section. The persons authorized by this subsection to deliver an absentee ballot to an applicant, if requested, may assist the applicant in filling out the ballot as permitted by section 49.90. After the voter has securely sealed the marked ballot in the envelope provided and has subscribed to the oath, the voted absentee ballots shall be deposited in a sealed container which shall be returned to the commissioner on the same day the ballots are voted. On election day the officers shall return the sealed container by the time the polls are closed.

~~2.~~ 3. Any registered voter who becomes a patient, tenant, or resident of a hospital, assisted living program, or health care facility in the county where the voter is registered to vote within three days prior to the date of any election or on election day may request an absentee ballot during that period or on election day. As an alternative to the application procedure prescribed by section 53.2, the registered voter may make the request directly to the officers who are delivering and returning absentee ballots under this section. Alternatively, the request may be made by telephone to the office of the commissioner not later than four hours

before the close of the polls. If the requester is found to be a registered voter of that county, these officers shall deliver the appropriate absentee ballot to the registered voter in the manner prescribed by this section.

~~3.~~ 4. For any election except a primary or general election or a special election to fill a vacancy under section 69.14, the commissioner may, as an alternative to subsection ~~±~~ 2, mail an absentee ballot to an applicant under this section to be voted and returned to the commissioner in accordance with this chapter. This subsection only applies to applications for absentee ballots from a single health care facility, assisted living program, or hospital if there are no more than two applications from that facility, program, or hospital.

~~4.~~ 5. The commissioner shall mail an absentee ballot to a registered voter who has applied for an absentee ballot and who is a patient, tenant, or resident of a hospital, assisted living program, or health care facility outside the county in which the voter is registered to vote.

~~5.~~ 6. *a.* If the registered voter becomes a patient, tenant, or resident of a hospital, assisted living program, or health care facility outside the county where the voter is registered to vote within three days before the date of any election or on election day, the voter may designate a person to deliver and return the absentee ballot. The designee may be any person the voter chooses except that no candidate for any office to be voted upon for the election for which the ballot is requested may deliver a ballot under this subsection. The request for an absentee ballot may be made by telephone to the office of the commissioner not later than four hours before the close of the polls. If the requester is found to be a registered voter of that county, the ballot shall be delivered by mail or by the person designated by the voter. An application form shall be included with the absentee ballot and shall be signed by the voter and returned with the ballot.

*b.* Absentee ballots voted under this subsection shall be delivered to the commissioner no later than the time the polls are closed on election day. If the ballot is returned by mail the return envelope must be received by the time the polls close, or be clearly postmarked by an officially authorized

postal service or bear an intelligent mail barcode traceable to a date of entry into the federal mail system not later than the day before the election and received by the commissioner no later than the time established for the canvass by the board of supervisors for that election.

~~6.~~ 7. Observers representing candidates, political parties, or nonparty political organizations, or observers who are opponents or proponents of a ballot issue to be voted on at the election are prohibited from being present at a hospital, assisted living program, or health care facility during the time the special precinct election officers are delivering absentee ballots to the patients, tenants, or residents of such hospital, assisted living program, or health care facility.

Sec. 7. Section 53.37, subsection 3, paragraph e, Code 2017, is amended to read as follows:

e. Citizens of the United States who do not fall under any of the categories described in paragraphs "a" through "d", but who are entitled to register and vote pursuant to section 48A.5, subsection 4 or 5.

Sec. 8. NEW SECTION. 231C.21 Certification list to county commissioner of elections.

To facilitate the implementation of section 53.8, subsection 3, and section 53.22, the director shall provide to each county commissioner of elections at least annually a list of each certified dementia-specific assisted living program in that county. The list shall include the street address or location, and the mailing address if it is other than the street address or location, of each program.

#### DIVISION V

#### SCHOOL ELECTIONS

Sec. 9. Section 260C.11, subsection 1, Code 2017, is amended to read as follows:

1. The governing board of a merged area is a board of directors composed of one member elected from each director district in the area by the electors of the respective district. Members of the board shall be residents of the district from which elected. Successors shall be chosen at the regular school elections for members whose terms expire. The term of a member of the board of directors is four years



and commences at the organizational meeting. Vacancies on the board shall be filled at the next regular meeting of the board by appointment by the remaining members of the board. A member so chosen shall be a resident of the district in which the vacancy occurred and shall serve until a member is elected ~~pursuant to~~ at the next school election or intervening special election held for the merged area, in accordance with section 69.12 to fill the vacancy for the balance of the unexpired term. A vacancy is defined in section 277.29. A member shall not serve on the board of directors who is a member of a board of directors of a local school district or a member of an area education agency board.

Sec. 10. Section 279.6, subsection 1, paragraph b, subparagraphs (1) and (2), Code 2017, are amended to read as follows:

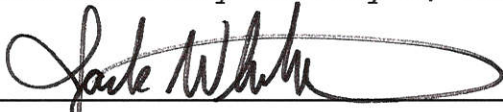
(1) If within fourteen days after publication of a notice required pursuant to paragraph "a" for a vacancy that occurs more than one hundred eighty days before the next regular school election, or after the filing period closes pursuant to section 277.4, subsection 1, for the next regular school election, there is filed with the secretary of the school board a petition requesting a special election to fill the vacancy, an appointment to fill the vacancy is temporary until a successor is elected and qualified, and the board shall call a special election pursuant to section 279.7, to fill the vacancy for the remaining balance of the unexpired term.

(2) If within fourteen days after publication of a notice required pursuant to paragraph "a" for a vacancy that occurs one hundred eighty days or less but more than forty days before the next regular school election there is filed with the secretary of the school board a petition requesting to fill the vacancy by election, an appointment to fill the vacancy is temporary until a successor is elected and qualified, and the school board shall require that the remaining balance of the unexpired term be filled at the next regular school election.

Sec. 11. EFFECTIVE UPON ENACTMENT. The section of this division of this Act amending section 260C.11, being deemed of immediate importance, takes effect upon enactment.

Sec. 12. RETROACTIVE APPLICABILITY. The section of

this division of this Act amending section 260C.11 applies retroactively to July 1, 2016.



JACK WHITVER  
President of the Senate



LINDA UPMEYER  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 399, Eighty-seventh General Assembly.



W. CHARLES SMITHSON  
Secretary of the Senate

Approved May 10, 2017



TERRY E. BRANSTAD  
Governor