

FILED MAR 11 '03

SENATE FILE 332
BY COMMITTEE ON STATE
GOVERNMENT

(SUCCESSOR TO SSB 1113)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the number of votes required to be received in
2 the primary election to be a political party nominee on the
3 general election ballot.

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

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SF 332

1 Section 1. Section 43.52, Code 2003, is amended to read as
2 follows:

3 43.52 NOMINEES FOR COUNTY OFFICE.

4 The nominee of each political party for any office to be
5 filled by the voters of the entire county, or for the office
6 of county supervisor elected from a district within the
7 county, shall be the person receiving the highest number of
8 votes cast in the primary election by the voters of that party
9 for the office, and that person shall appear as the party's
10 candidate for the office on the general election ballot.

11 ~~If no candidate receives thirty-five percent or more of the~~
12 ~~votes cast by voters of the candidate's party for the office~~
13 ~~sought, the primary is inconclusive and the nomination shall~~
14 ~~be made as provided by section 43.787 subsection 1, paragraphs~~
15 ~~"d" and "e".~~

16 When two or more nominees are required, as in the case of
17 at-large elections, the nominees shall likewise be the
18 required number of persons who receive the greatest number of
19 votes cast in the primary election by the voters of the
20 nominating party, ~~but no candidate is nominated who fails to~~
21 ~~receive thirty-five percent of the number of votes found by~~
22 ~~dividing the number of votes cast by voters of the candidate's~~
23 ~~party for the office in question by the number of persons to~~
24 ~~be elected to that office. If the primary is inconclusive~~
25 ~~under this paragraph, the necessary number of nominations~~
26 ~~shall be made as provided by section 43.787 subsection 1,~~
27 ~~paragraphs "d" and "e".~~

28 Sec. 2. Section 43.53, Code 2003, is amended to read as
29 follows:

30 43.53 NOMINEES FOR SUBDIVISION OFFICE -- WRITE-IN
31 CANDIDATES.

32 The nominee of each political party for any office to be
33 filled by the voters of any township or other political
34 subdivision within the county shall be the person receiving
35 the highest number of votes cast in the primary election by

1 the voters of that party for the office. That person shall
2 appear as the party's candidate for the office on the general
3 election ballot. A person whose name is not printed on the
4 official primary ballot shall not be declared nominated as a
5 candidate for such office in the general election unless that
6 person receives at least five votes. Nomination of a
7 candidate for the office of county supervisor elected from a
8 district within the county shall be governed by ~~section~~
9 sections 43.52 and 43.66 and not by this section.

10 Sec. 3. Section 43.56, Code 2003, is amended by striking
11 the section and inserting in lieu thereof the following:

12 43.56 PRIMARY ELECTION RECOUNT PROVISIONS.

13 Recounts of votes for primary elections shall be conducted
14 following the procedure outlined in section 50.48. The bond
15 shall be in the amount specified in section 50.48, subsection
16 2.

17 Sec. 4. Section 43.65, Code 2003, is amended to read as
18 follows:

19 43.65 WHO NOMINATED.

20 The candidate of each political party for nomination for
21 each office to be filled by the voters of the entire state,
22 and for each seat in the United States house of
23 representatives, the Iowa house of representatives and each
24 seat in the Iowa senate which is to be filled, who receives
25 the highest number of votes cast by the voters of that party
26 for that nomination shall be the candidate of that party for
27 that office in the general election. ~~However, if there are~~
28 ~~more than two candidates for any nomination and none of the~~
29 ~~candidates receives thirty-five percent or more of the votes~~
30 ~~cast by voters of that party for that nomination, the primary~~
31 ~~is inconclusive and the nomination shall be made as provided~~
32 ~~by section 43.78, subsection 1, paragraph "a", "b" or "c",~~
33 ~~whichever is appropriate.~~

34 Sec. 5. Section 43.66, Code 2003, is amended to read as
35 follows:

1 43.66 WRITE-IN CANDIDATES.

2 The fact that the candidate who receives the highest number
3 of votes cast for any party's nomination for an office to
4 which section 43.52 or 43.65 is applicable is a person whose
5 name was not printed on the official primary election ballot
6 shall not affect the validity of the person's nomination as a
7 candidate for that office in the general election. However,
8 if there is no candidate on the official primary ballot of a
9 political party for nomination to a particular office, a
10 write-in candidate may obtain the party's nomination to that
11 office in the primary if the candidate receives ~~a number of~~
12 ~~votes equal to at least thirty-five percent of the total vote~~
13 ~~cast for all of that party's candidates for that office in the~~
14 ~~last preceding primary election for which the party had~~
15 ~~candidates on the ballot for that office.---If there have been~~
16 ~~no candidates from a political party for a seat in the general~~
17 ~~assembly since the most recent redistricting of the general~~
18 ~~assembly, a write-in candidate shall be considered nominated~~
19 ~~who receives a number of votes equal to at least thirty-five~~
20 ~~percent of the total votes cast, at the last preceding primary~~
21 ~~election in the precincts which currently constitute the~~
22 ~~general assembly district, for all of that party's candidates~~
23 ~~for representative in the Congress of the United States or who~~
24 receives at least one hundred votes, whichever number is
25 greater.---When two or more nominees are required, the division
26 procedure prescribed in section 43.52 shall be applied to
27 establish the minimum number of write-in votes necessary for
28 nomination. If the primary is inconclusive, the necessary
29 nominations shall be made in accordance with section 43.78,
30 subsection 1.

31 Sec. 6. Section 43.77, subsection 2, Code 2003, is amended
32 by striking the subsection.

33

EXPLANATION

34 This bill removes the requirement that candidates in a
35 primary election must receive at least 35 percent of the votes

1 cast to be nominated as their party's candidate on the general
2 election ballot. The bill also removes the 35 percent
3 requirement in cases of a person nominated by write-in votes
4 to an office for which there is no candidate on the official
5 primary ballot of a political party. The current requirement
6 that at least 100 write-in votes be cast for a person for
7 nomination to a seat in the general assembly if there is no
8 candidate on the official primary ballot of a political party
9 for that office is extended to county offices, offices to be
10 filled by the voters of the entire state, and for each seat in
11 the U.S. house of representatives.

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S-3198

1 Amend Senate File 332 as follows:

2 1. Page 1, by inserting before line 1, the
3 following:

4 "Section 1. NEW SECTION. 38E.1 SECURE AND
5 VERIFIABLE IDENTIFICATION.

6 1. A public benefit or service of this state,
7 including a law enforcement service, which requires
8 the recipient of the public benefit or service to
9 produce identification, shall not be provided by a
10 department, agency, or any political subdivision of
11 this state, or other entity within the executive,
12 legislative, or judicial branch of this state, unless
13 the identification is issued by a federal or state
14 authority and is subject to verification by a federal
15 law enforcement, intelligence, or homeland security
16 agency.

17 2. An elected or appointed official, employee, or
18 other contractor or agent of this state or of a
19 political subdivision of this state who takes any
20 action inconsistent with subsection 1 shall be deemed
21 to be acting beyond the scope of authority granted by
22 law and shall not be immune from liability for such
23 action unless such immunity is conferred by the
24 Constitution of the United States or the Constitution
25 of the State of Iowa and cannot be waived.

26 Sec. ____ . Section 43.2, unnumbered paragraph 1,
27 Code 2003, is amended to read as follows:

28 The term "political party" ~~shall mean~~ means a party
29 which, at the last preceding general election, cast
30 for its candidate for ~~president of the United States~~
31 ~~or for governor, as the case may be~~ any statewide
32 office, at least two percent of the total vote cast
33 for all candidates for that office at that election
34 or, in the alternative, which maintains registrations
35 with that party in a number equal to or greater than
36 one-half of one percent of the total number of voters
37 who cast ballots in the last preceding general
38 election. It shall be the responsibility of the state
39 commissioner to determine whether any organization
40 claiming to be a political party qualifies as such
41 under the foregoing definition.

42 Sec. ____ . NEW SECTION. 43.51A PRIMARY RUNOFF
43 ELECTIONS.

44 1. If there are two or more candidates for any
45 nomination under section 43.52, subsection 1, or
46 section 43.65, and no candidate receives thirty-five
47 percent or more of the votes cast by voters of the
48 candidate's party for the office sought, but the
49 number of votes received by the candidate receiving
50 the highest number of votes cast exceeds by ten

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1 percent or more of the total votes cast for the office
2 the number of votes received by the candidate
3 receiving the next highest number of votes cast, the
4 candidate receiving the highest number of votes cast
5 shall appear as the party's candidate for the office
6 on the general election ballot. If there are two or
7 more candidates for any nomination and no candidate
8 receives thirty-five percent or more of the votes cast
9 by voters of the candidate's party for the office
10 sought, and the number of votes received by the
11 candidate receiving the highest number of votes cast
12 does not exceed by ten percent or more of the total
13 votes cast for the office the number of votes received
14 by the candidate receiving the next highest number of
15 votes cast, the primary is inconclusive and the
16 nomination shall be determined in a runoff election.
17 The candidates receiving the highest and next highest
18 number of votes in the primary election are candidates
19 in the runoff election.

20 2. If under section 43.66, two or more candidates
21 receive at least one hundred votes, the nomination
22 shall be determined in a runoff election. The
23 candidates receiving the highest and next highest
24 number of votes in the primary election are candidates
25 in the runoff election.

26 3. The runoff election shall be held five weeks
27 after the date of the primary election and shall be
28 conducted in the same manner as the primary election.
29 The candidate receiving the highest number of votes
30 for a nomination in the runoff election shall be the
31 candidate of that party for that office in the general
32 election."

33 2. Page 1, line 4, by inserting before the word
34 "The" the following: "1."

35 3. Page 1, line 10, by inserting after the word
36 "ballot" the following: ", except as otherwise
37 provided in section 43.51A".

38 4. Page 1, line 16, by inserting before the word
39 "When" the following: "2."

40 5. Page 2, line 13, by inserting after the word
41 "elections" the following: "and primary runoff
42 elections".

43 6. Page 2, line 27, by inserting after the word
44 "election" the following: ", except as otherwise
45 provided in section 43.51A".

46 7. Page 3, by striking lines 28 through 32, and
47 inserting the following: "nomination, except as
48 otherwise provided in section 43.51A. If no candidate
49 receives at least one hundred votes, the primary is
50 inconclusive, and the necessary nominations shall be

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Page 3

1 made in accordance with section 43.78, subsection 1.
2 Sec. _____. Section 43.77, subsection 2, Code 2003,
3 is amended to read as follows:

4 2. The primary election was inconclusive as to
5 that office because no candidate for the party's
6 nomination for that office received the number of
7 votes required by section ~~43.52, 43.53 or 43.65,~~
8 ~~whichever is applicable~~ 43.66."

9 8. Title page, by striking lines 1 through 3, and
10 inserting the following: "An Act relating to public
11 benefits and public office, including identification
12 requirements for receipt of public benefits and
13 services, allowing greater third party ballot access
14 by redefining political party, and requiring runoff
15 elections for certain nominations to public office."

16 9. By renumbering, redesignating, and correcting
17 internal references as necessary.

By NEAL SCHUERER
JEFF LAMBERTI

BRYAN J. SIEVERS
MARY A. LUNDBY

S-3198 FILED APRIL 14, 2003

Schuerer State Government
Zieman
Ragan

SSB 1113

SENATE FILE _____
BY (PROPOSED COMMITTEE ON STATE
GOVERNMENT BILL BY
CHAIRPERSON ZIEMAN)

Succeeded By
SP/HF 332

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
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35 primary election must receive at least 35 percent of the votes

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3 requirement in cases of a person nominated by write-in votes
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