

House Study Bill 587 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED SECRETARY OF
STATE BILL)

A BILL FOR

1 An Act relating to elections and voter registration, including
2 technical administration of the law by making modifications
3 to certain filing deadlines, preservation of certain
4 records, special elections to fill certain vacancies
5 in office, absentee voting, voting systems, and ballot
6 summaries.

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

1 Section 1. Section 43.16, Code 2011, is amended to read as
2 follows:

3 **43.16 Return of papers, additions not allowed.**

4 1. After a nomination paper has been filed, it shall not
5 be returned to the person who has filed the paper, nor shall
6 any signature or other information be added to the nomination
7 paper.

8 2. a. A person who has filed nomination petitions with the
9 state commissioner may withdraw as a candidate not later than
10 5:00 p.m. on the seventy-sixth day before the primary election
11 by notifying the state commissioner in writing.

12 b. A person who has filed nomination papers with the
13 commissioner may withdraw as a candidate not later than 5:00
14 p.m. on the sixty-seventh day before the primary election by
15 notifying the commissioner in writing.

16 3. The name of a candidate who has withdrawn or died at a
17 time in accordance with this section shall be omitted from the
18 certificate furnished by the state commissioner under section
19 43.22 and omitted from the primary election ballot.

20 Sec. 2. Section 43.23, Code 2011, is amended to read as
21 follows:

22 **43.23 Death or withdrawal of primary candidate.**

23 1. If a person who has filed nomination papers with the
24 state commissioner as a candidate in a primary election dies
25 or withdraws ~~up to~~ before 5:00 p.m. on the seventy-sixth
26 day before the primary election, the appropriate convention
27 or central committee of that person's political party may
28 designate one additional primary election candidate for the
29 nomination that person was seeking, if the designation is
30 submitted to the state commissioner in writing by 5:00 p.m. on
31 the seventy-first day before the date of the primary election.
32 The name of any candidate so submitted shall be included in the
33 appropriate certificate or certificates furnished by the state
34 commissioner under section 43.22.

35 2. If a person who has filed nomination papers with the

1 commissioner as a candidate in a primary election dies or
2 withdraws ~~up to~~ before 5:00 p.m. on the sixty-seventh day
3 before the primary election, the appropriate convention
4 or central committee of that person's political party may
5 designate one additional primary election candidate for the
6 nomination that person was seeking, if the designation is
7 submitted to the commissioner in writing by 5:00 p.m. on the
8 sixty-third day before the primary election. The name of any
9 candidate so submitted shall be placed on the appropriate
10 ballot or ballots by the commissioner.

11 Sec. 3. Section 43.24, subsection 1, paragraph b, Code 2011,
12 is amended by adding the following new subparagraph:

13 NEW SUBPARAGRAPH. (03) Objections to nominations to fill
14 vacancies in the office of representative in Congress at a
15 special election held under section 69.14 shall be filed with
16 the state commissioner not less than sixty days prior to the
17 date set for the special election.

18 Sec. 4. Section 43.24, subsection 1, paragraph b,
19 subparagraph (3), Code 2011, is amended to read as follows:

20 (3) Objections to nominations to fill vacancies in the
21 general assembly at a special election held under section
22 69.14, under which the forty-day notice of election provision
23 applies, shall be filed with the state commissioner not less
24 than fifteen days prior to the date set for the special
25 election. If the forty-day notice provision does not apply,
26 objections to nominations to fill vacancies in the general
27 assembly at a special election held under section 69.14 may be
28 filed any time prior to the date set for the special election.

29 Sec. 5. Section 43.24, subsection 1, Code 2011, is amended
30 by adding the following new paragraph:

31 NEW PARAGRAPH. c. Objections filed pursuant to this section
32 shall be filed no later than 5:00 p.m. on the final date for
33 filing.

34 Sec. 6. Section 43.24, subsection 2, paragraph b, Code 2011,
35 is amended to read as follows:

1 *b.* If an objection is filed to a nomination to fill
2 a vacancy in the general assembly at a special election
3 held under section 69.14, under which the forty-day notice
4 of election provision of section 69.14 does not apply,
5 notice of the objection shall be made to the candidate by
6 the state commissioner as soon as practicable. Under this
7 paragraph, failure to notify a candidate of an objection to the
8 candidate's nomination prior to the date set for the special
9 election does not invalidate the hearing conducted under
10 subsection 3. The hearing to an objection shall proceed as
11 quickly as possible to expedite the special election.

12 Sec. 7. Section 43.72, Code 2011, is amended to read as
13 follows:

14 **43.72 State returns filed and preserved.**

15 When the canvass is concluded, the board shall deliver
16 the original abstract returns to the state commissioner, who
17 shall file the returns in the state commissioner's office and
18 preserve the abstracts of the canvass of the state board and
19 certificates attached thereto. The state commissioner may
20 preserve the abstracts and certificates attached thereto in an
21 electronic format.

22 Sec. 8. Section 43.88, Code 2011, is amended to read as
23 follows:

24 **43.88 Certification of nominations.**

25 1. Nominations made by state, district, and county
26 conventions, shall, under the name, place of residence, and
27 post office address of the nominee, and the office to which
28 nominated, and the name of the political party making the
29 nomination, be forthwith certified to the proper officer by
30 the chairperson and secretary of the convention, or by the
31 committee, as the case may be, and if such certificate is
32 received in time, the names of such nominees shall be printed
33 on the official ballot the same as if the nomination had been
34 made in the primary election.

35 2. Nominations made to fill vacancies in the office of

1 representative in Congress shall be certified to the state
2 commissioner not less than sixty-two days prior to the date set
3 for the special election. Nominations made to fill vacancies
4 in other offices to which this chapter applies at a special
5 election shall be certified to the proper official not less
6 than twenty-five days prior to the date set for the special
7 election. In the event the special election is to fill a
8 vacancy in the general assembly while it is in session or
9 within forty-five days of the convening of any session, the
10 nomination shall be certified not less than fourteen days
11 before the date of the special election.

12 3. Nominations certified to the proper official under this
13 section shall be accompanied by an affidavit executed by the
14 nominee in substantially the form required by section 43.67.

15 Sec. 9. Section 44.4, subsection 1, Code 2011, is amended
16 to read as follows:

17 1. Nominations made pursuant to this chapter and
18 chapter 45 which are required to be filed in the office of
19 the state commissioner shall be filed in that office not
20 more than ninety-nine days nor later than 5:00 p.m. on the
21 eighty-first day before the date of the general election to
22 be held in November. Nominations made for a special election
23 called pursuant to section 69.14 to fill vacancies in the
24 general assembly shall be filed by 5:00 p.m. not less than
25 twenty-five days before the date of an election called upon
26 at least forty days' notice and not less than fourteen days
27 before the date of an election called upon at least eighteen
28 days' notice. Nominations made to fill vacancies in the
29 office of representative in Congress at a special election
30 shall be certified to the state commissioner not less than
31 sixty-two days prior to the date set for the special election.
32 Nominations made for a special election called pursuant to
33 section 69.14A shall be filed by 5:00 p.m. not less than
34 twenty-five days before the date of the election. Nominations
35 made pursuant to this chapter and chapter 45 which are required

1 to be filed in the office of the commissioner shall be filed
2 in that office not more than ninety-two days nor later than
3 5:00 p.m. on the sixty-ninth day before the date of the general
4 election. Nominations made pursuant to this chapter or chapter
5 45 for city office shall be filed not more than seventy-two
6 days nor later than 5:00 p.m. on the forty-seventh day before
7 the city election with the city clerk, who shall process them
8 as provided by law.

9 Sec. 10. Section 44.4, subsection 2, paragraph a, Code 2011,
10 is amended by adding the following new subparagraphs:

11 NEW SUBPARAGRAPH. (03) Objections to nominations to fill
12 a vacancy in the office of representative in Congress at a
13 special election held under section 69.14 shall be filed with
14 the state commissioner not less than sixty days prior to the
15 date set for the special election.

16 NEW SUBPARAGRAPH. (003) Objections to nominations to
17 fill a vacancy in the general assembly at a special election
18 held under section 69.14, under which the forty-day notice
19 of election provision applies, shall be filed with the state
20 commissioner not less than fifteen days prior to the date set
21 for the special election. If the forty-day notice provision
22 does not apply, objections to nominations to fill vacancies at
23 a special election held under section 69.14 may be filed no
24 later than the day before the special election.

25 Sec. 11. Section 48A.30, subsection 1, paragraph a, Code
26 2011, is amended to read as follows:

27 a. The registered voter dies. For the purposes of this
28 subsection, the commissioner may accept as evidence of death a
29 notice from the state registrar of vital statistics forwarded
30 by the state registrar of voters, a written statement from a
31 member of the registered voter's household, an obituary in
32 a newspaper, an obituary on a funeral home internet site, a
33 written statement from an election official, or a notice from
34 the county recorder of the county where the registered voter
35 died.

1 Sec. 12. Section 48A.32, Code 2011, is amended to read as
2 follows:

3 **48A.32 Destruction or removal of canceled voter registration**
4 **records.**

5 Twenty-two months after the next general election following
6 the cancellation of a person's voter registration, or
7 receipt of an incomplete voter registration application,
8 the commissioner may destroy all records of that person's
9 registration, including electronic records. At the discretion
10 of the commissioner, canceled records may be donated to a
11 historical society if all confidential information has been
12 removed from the records.

13 Sec. 13. Section 49.45, Code 2011, is amended to read as
14 follows:

15 **49.45 General form of ballot.**

16 Ballots referred to in section 49.43 shall be ~~substantially~~
17 in one of the following ~~form~~ forms:

18 Shall the following amendment to the Constitution (or public
19 measure) be adopted?

20 Yes

21 No

22 (Here insert the summary, if it is for a constitutional
23 amendment or statewide public measure, and in full the proposed
24 constitutional amendment or public measure. The number
25 assigned by the state commissioner or the letter assigned
26 by the county commissioner shall be included on the ballot
27 centered above the question, "Shall the following amendment to
28 the Constitution [or public measure] be adopted?".)

29 Shall the following amendment to the Constitution (or public
30 measure) be adopted?

31 (Here insert the summary, if it is for a constitutional
32 amendment or statewide public measure, and in full the proposed
33 constitutional amendment or public measure. The number
34 assigned by the state commissioner or the letter assigned
35 by the county commissioner shall be included on the ballot

1 centered above the question, "Shall the following amendment to
2 the Constitution [or public measure] be adopted?".)

3 Yes

4 No

5 Sec. 14. Section 50.15A, subsection 2, paragraph a, Code
6 2011, is amended to read as follows:

7 a. After the polls close on election day for a primary
8 election, general election, or special election under section
9 69.14, the commissioner of elections shall periodically provide
10 election results to the state commissioner of elections as
11 the precincts in the county report election results to the
12 commissioner pursuant to section 50.11. If the commissioner
13 has access to the software program necessary to produce the
14 election results in an electronic format, the commissioner
15 shall provide the election results required by this section in
16 an electronic format. If the commissioner determines that all
17 precincts will not report election results before the office is
18 closed, the commissioner shall report the most complete results
19 available prior to leaving the office at the time the office is
20 closed as provided in section 50.11. The commissioner shall
21 specify the number of precincts included in the report to the
22 state commissioner of elections.

23 Sec. 15. Section 50.48, subsection 1, paragraph b, Code
24 2011, is amended to read as follows:

25 b. Immediately upon receipt of a request for a recount,
26 the commissioner shall send a copy of the request to the
27 apparent winner by certified mail. The commissioner shall
28 also attempt to contact the apparent winner by telephone.
29 If the apparent winner cannot be reached within four days,
30 the chairperson of the political party or organization which
31 nominated the apparent winner shall be contacted or, in the
32 case of an election for a nonpartisan office, the entity or
33 officer responsible for making an appointment to fill a vacancy
34 in the office shall be contacted and shall act on behalf of the
35 apparent winner, if necessary. ~~For~~ On behalf of candidates for

1 partisan state or federal offices, the chairperson of the state
2 party shall be contacted. ~~For~~ On behalf of candidates for
3 partisan county offices, the county chairperson of the party
4 shall be contacted.

5 Sec. 16. Section 52.5, subsection 2, Code 2011, is amended
6 to read as follows:

7 2. The state commissioner shall formulate, with the advice
8 and assistance of the examiners, and adopt rules governing the
9 testing and examination of any optical scan voting system by
10 the board of examiners. The rules shall prescribe the method
11 to be used in determining whether the system is suitable for
12 use within the state and performance standards for voting
13 equipment in use within the state. The rules shall provide
14 that all optical scan voting systems approved for use by the
15 examiners after April 9, 2003, shall meet voting systems
16 performance and test standards, as adopted ~~by the federal~~
17 ~~election commission on April 30, 2002, and~~ pursuant to the
18 provisions of or as deemed adopted by Pub. L. No. 107-252,
19 § 222. The rules shall include standards for determining when
20 recertification is necessary following modifications to the
21 equipment or to the programs used in tabulating votes, and a
22 procedure for rescinding certification if a system is found
23 not to comply with performance standards adopted by the state
24 commissioner.

25 Sec. 17. Section 53.18, subsection 2, Code 2011, is amended
26 to read as follows:

27 2. If the commissioner receives the return envelope
28 containing the completed absentee ballot by 5:00 p.m. on the
29 Saturday before the election for general and primary elections
30 and by 5:00 p.m. on the Friday before the election for all
31 other elections, the commissioner shall open the envelope to
32 review the affidavit for completeness. If the affidavit is
33 incomplete, the commissioner shall, within twenty-four hours of
34 the time the envelope was received, notify the voter of that
35 fact and that the voter may complete the affidavit in person

1 at the office of the commissioner by 5:00 p.m. on the day
2 before the election, or in the case of an election at which the
3 polls open at noon on election day, by 10:00 a.m. on the date
4 of the election, vote a replacement ballot in the manner and
5 within the time period provided in subsection 3, or appear at
6 the voter's precinct polling place on election day and cast a
7 ballot in accordance with section 53.19, subsection 3.

8 Sec. 18. Section 53.30, Code 2011, is amended to read as
9 follows:

10 **53.30 Ballots, ballot envelopes, and other information**
11 **preserved.**

12 At the conclusion of each meeting of the absentee and special
13 voter's precinct board, the board shall securely seal all
14 ballots counted by them in the manner prescribed in section
15 50.12. The ballot envelopes, including the envelope having the
16 registered voter's affidavit on it, the return envelope, and
17 secrecy envelope ~~bearing the signatures of precinct election~~
18 ~~officials,~~ as required by section 53.23, shall be preserved.
19 All applications for absentee ballots, ballots rejected without
20 being opened, absentee ballot logs, and any other documents
21 pertaining to the absentee ballot process shall be preserved
22 until such time as the documents may be destroyed pursuant to
23 section 50.19.

24 Sec. 19. Section 53.39, subsection 2, Code 2011, is amended
25 to read as follows:

26 2. All official ballots to be voted by qualified absent
27 voters in the armed forces of the United States at the primary
28 election, ~~and the general election,~~ and special elections for
29 representative in Congress shall be printed prior to forty-five
30 days before the respective elections and shall be available for
31 transmittal to such qualified voters in the armed forces of the
32 United States at least forty-five days before the respective
33 elections. The provisions of this chapter apply to absent
34 voting by qualified voters in the armed forces of the United
35 States except as modified by the provisions of this division.

1 Sec. 20. Section 53.40, subsection 2, Code 2011, is amended
2 to read as follows:

3 2. The commissioner shall immediately ~~on~~ after the ballots
4 are available and no later than the forty-fifth day prior to
5 the particular primary election, general election, or special
6 election for representative in Congress transmit ballots to
7 the voter by mail or otherwise, postage prepaid, as directed
8 by the state commissioner, requests for which are in the
9 commissioner's hands at that time, and thereafter so transmit
10 ballots immediately upon receipt of requests. A request for
11 ballot for the primary election which does not state the party
12 affiliation of the voter making the request is void and of no
13 effect. A request which does not show that the person for whom
14 a ballot is requested will be a qualified voter in the precinct
15 in which the ballot is to be cast on the day of the election for
16 which the ballot is requested, shall not be honored. However,
17 a request which states the age and the city, including street
18 address, and county where the voter resides is sufficient to
19 show that the person is a qualified voter. A request by the
20 voter containing substantially the information required is
21 sufficient.

22 Sec. 21. Section 53.47, Code 2011, is amended to read as
23 follows:

24 **53.47 Materials furnished by ~~department of administrative~~**
25 **services state commissioner.**

26 1. In order to establish uniformity in size, weight
27 and other characteristics of the ballot and facilitate its
28 distribution and return, the ~~department of administrative~~
29 ~~services shall upon direction of the state commissioner~~
30 shall purchase any material needed for any special ballots,
31 envelopes, and other printed matter, and sell any such
32 materials to the several counties of the state at cost plus
33 handling and transportation costs.

34 2. There is hereby appropriated to the ~~department of~~
35 ~~administrative services state commissioner~~ from the general

1 fund of the state such sums as may be necessary to purchase
2 any materials provided for herein. The proceeds from sale of
3 such materials to counties shall be turned into the general
4 fund of the state upon receipt of same by the ~~department of~~
5 administrative services state commissioner.

6 Sec. 22. Section 69.14, Code 2011, is amended to read as
7 follows:

8 **69.14 Special election to fill vacancies.**

9 A special election to fill a vacancy shall be held for a
10 representative in Congress, or senator or representative in the
11 general assembly, when the body in which such vacancy exists is
12 in session, or will convene prior to the next general election,
13 ~~and the.~~ The governor shall order, not later than five days
14 from the date the vacancy exists, a special election, giving
15 not less than seventy-six days' notice of such election to
16 fill a vacancy in the office of representative in Congress or
17 forty days' notice of such election to fill a vacancy in the
18 office of senator or representative in the general assembly.
19 In the event the special election is to fill a vacancy in the
20 general assembly while it is in session or within forty-five
21 days of the convening of any session, the time limit provided
22 in this section shall not apply and the governor shall order
23 such special election at the earliest practical time, giving
24 at least eighteen days' notice of the special election. Any
25 special election called under this section must be held on
26 a Tuesday and shall not be held on the same day as a school
27 election within the district.

28 Sec. 23. EFFECTIVE UPON ENACTMENT. The following
29 provision or provisions of this Act, being deemed of immediate
30 importance, take effect upon enactment:

31 1. The section of this Act amending section 43.24,
32 subsection 1, paragraph "b".

33 2. The section of this Act amending section 43.24,
34 subsection 2, paragraph "b".

35 3. The section of this Act amending section 43.88.

1 4. The sections of this Act amending section 44.4,
2 subsections 1 and 2.

3 5. The section of this Act amending section 53.39,
4 subsection 2.

5 6. The section of this Act amending section 53.40,
6 subsection 2.

7 7. The section of this Act amending section 69.14.

8

EXPLANATION

9 This bill relates to the conduct of elections and voter
10 registration generally.

11 The bill amends Code section 43.16, relating to withdrawal
12 of a primary election candidate, and Code section 43.23,
13 relating to replacement of a primary election candidate who
14 has withdrawn or died, to add the clock time of 5:00 p.m. to
15 the current deadline dates. The bill also amends Code section
16 43.24, relating to filing objections to primary election
17 nominations, to add the clock time of 5:00 p.m. to the current
18 deadline dates.

19 The bill amends Code section 43.72 to specify that the state
20 commissioner of elections has the authority to electronically
21 preserve certain abstracts and certificates from primary
22 elections.

23 The bill amends Code section 48A.30 to provide that in
24 canceling the registration of a registered voter, a county
25 commissioner of elections may accept an obituary on a funeral
26 home internet site as evidence of death.

27 The bill amends Code section 48A.32 to allow a county
28 commissioner of elections, following receipt of a person's
29 incomplete voter registration application, to destroy all
30 records and electronic records of that person's incomplete
31 registration 22 months after the next general election. The
32 bill also allows a county commissioner of elections to destroy
33 the electronic records of canceled or incomplete registrations.

34 The bill amends Code section 49.45 to allow ballots for
35 constitutional amendments and other public measures to be

1 published in one of two forms.

2 The bill amends Code section 50.15A to require that a
3 county commissioner of elections provide unofficial election
4 results to the state commissioner of elections for all primary
5 elections and special elections to fill vacancies in the
6 general assembly or office of representative in Congress.
7 Current law already requires that county commissioners provide
8 such results for general elections. The bill also requires
9 that for a primary election, general election, or special
10 election to fill vacancies in the general assembly or office of
11 representative in Congress, a county commissioner of elections
12 provide the state commissioner of elections with election
13 results in an electronic format if the county commissioner has
14 access to the software necessary to produce the results in an
15 electronic format.

16 The bill amends Code section 50.48 to require that in the
17 case of a recount of an election for a nonpartisan office, if
18 the apparent winner cannot be reached within four days after
19 receipt of a request for a recount, the county commissioner of
20 elections shall contact the entity or officer responsible for
21 making an appointment to a vacancy in the nonpartisan office.

22 The bill amends Code section 52.5, relating to the testing
23 and examination of voting equipment, to remove a reference to
24 specific performing and test standards adopted by the federal
25 elections commission on April 30, 2002, but to maintain a
26 reference to the adoption of such standards pursuant to Pub.
27 L. No. 107-252, § 222.

28 The bill amends Code section 53.18 which requires that a
29 county commissioner of elections notify a voter that the voter
30 is allowed the opportunity to complete an affidavit, if the
31 affidavit that accompanies the absentee ballot is incomplete,
32 within 24 hours of the county commissioner receiving
33 the absentee ballot. The bill requires that the county
34 commissioner notify such a voter that they may complete the
35 affidavit in person at the office of the county commissioner

1 by 10:00 a.m. on the date of the election in the case of an
2 election at which the polls open at noon.

3 The bill amends Code section 53.30 to remove a reference to
4 a requirement that precinct election officials sign the secrecy
5 envelopes that are included with absentee ballots. That
6 requirement was repealed in 2008.

7 The bill amends Code section 53.47, relating to military
8 and overseas voters, to require that the state commissioner
9 of elections purchase any materials needed for any special
10 ballots, envelopes, and other printed materials, and sell such
11 materials to the several counties of the state. Current law
12 requires that the department of administrative services conduct
13 these functions at the direction of the state commissioner of
14 elections. The bill also directs general funds appropriated
15 for these purposes to the state commissioner of elections
16 instead of to the department of administrative services.

17 In order to comply with the provisions of the 2009 Military
18 and Overseas Voter Empowerment Act, the bill amends Code
19 section 69.14 to provide that for vacancies in the office
20 of representative in Congress the governor shall give not
21 less than 76 days' notice, rather than 40 days' notice, of
22 the special election to fill the vacancy. The bill makes
23 corresponding changes to Code section 43.24, relating to
24 deadlines for filing objections, and to Code section 43.88,
25 relating to the deadline for filing nomination petitions. The
26 bill makes corresponding changes to Code section 44.4, relating
27 to deadlines for nominations made by nonparty political
28 organizations to fill a vacancy for representatives in Congress
29 or the general assembly and objections to those nominations.
30 The bill also makes corresponding amendments to Code sections
31 53.39 and 53.40 to add special elections for representative in
32 Congress to provisions relating to availability of ballots for
33 qualified voters in the armed forces. These provisions of the
34 bill take effect upon enactment.