

**Senate File 322 - Introduced**

SENATE FILE 322  
BY COMMITTEE ON STATE  
GOVERNMENT

(SUCCESSOR TO SF 10)

**A BILL FOR**

1 An Act requiring that a primary runoff election be held in  
2 the event of an inconclusive primary election for certain  
3 offices, and including effective date and applicability  
4 provisions.

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

1 Section 1. Section 43.52, Code 2015, is amended to read as  
2 follows:

3 **43.52 Nominees for county office.**

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

11 b. If no candidate receives thirty-five percent or more  
12 of the votes cast by voters of the candidate's party for the  
13 office sought, the primary is inconclusive and the nomination  
14 shall be made as provided by ~~section 43.78, subsection 1,~~  
15 ~~paragraphs "d" and "e"~~ subsection 3.

16 2. When two or more nominees are required, as in the case  
17 of at-large elections, the nominees shall likewise be the  
18 required number of persons who receive the ~~greatest~~ highest  
19 number of votes cast in the primary election by the voters of  
20 the nominating party, but no candidate is nominated who fails  
21 to 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 be  
24 elected to that office. If the primary is inconclusive under  
25 this ~~paragraph~~ subsection, the necessary number of nominations  
26 shall be made as provided by ~~section 43.78, subsection 1,~~  
27 ~~paragraphs "d" and "e"~~ subsection 3.

28 3. a. A primary runoff election shall be held only  
29 for nominations unfilled because the primary election is  
30 inconclusive under subsection 1 or 2.

31 (1) When one nominee is required for an office, the two  
32 candidates who received the highest number of votes cast for  
33 that nomination in the primary election shall be the candidates  
34 in the primary runoff election.

35 (2) When two or more nominees are required for an office and

1 the necessary number of nominations cannot be made pursuant to  
2 subsection 2, the number of candidates in the primary runoff  
3 election shall equal one more than the necessary number of  
4 nominations remaining unfilled. The candidates in the primary  
5 runoff election shall be the remaining candidates who received  
6 the highest number of votes cast in the primary election but  
7 who did not receive at least thirty-five percent of the votes  
8 cast in the primary election.

9 b. Primary runoff elections shall be held four weeks  
10 after the date of the primary election and shall, insofar as  
11 practicable, be conducted and the results canvassed in the same  
12 manner as primary elections.

13 c. The candidates equal in number to the necessary number of  
14 nominations remaining unfilled who receive the highest number  
15 of votes cast by the voters of the nominating party shall be  
16 the nominees of that party for that office in the general  
17 election.

18 d. The fact that the candidate who receives the highest  
19 number of votes cast for any party's nomination for an office  
20 under this subsection is a person whose name was not printed on  
21 the official primary runoff election ballot shall not affect  
22 the validity of the person's nomination as a candidate for that  
23 office in the general election.

24 Sec. 2. Section 43.65, Code 2015, is amended to read as  
25 follows:

26 **43.65 Who nominated.**

27 1. The candidate of each political party for nomination  
28 for each office to be filled by the voters of the entire  
29 state, and for each seat in the United States house of  
30 representatives, the Iowa house of representatives and each  
31 seat in the Iowa senate which is to be filled, who receives  
32 the highest number of votes cast by the voters of that party  
33 for that nomination shall be the candidate of that party for  
34 that office in the general election. However, if there are  
35 more than two candidates for any nomination and none of the

1 candidates receives thirty-five percent or more of the votes  
2 cast by voters of that party for that nomination, the primary  
3 is inconclusive and the nomination shall be made as provided  
4 by ~~section 43.78, subsection 1, paragraph "a", "b" or "c",~~  
5 ~~whichever is appropriate~~ subsection 2.

6 2. a. A primary runoff election shall be held only  
7 for nominations unfilled because the primary election is  
8 inconclusive under subsection 1. The two candidates who  
9 received the highest number of votes cast for that nomination  
10 in the primary election shall be the candidates in the primary  
11 runoff election.

12 b. Primary runoff elections shall be held four weeks  
13 after the date of the primary election and shall, insofar as  
14 practicable, be conducted and the results canvassed in the same  
15 manner as primary elections.

16 c. The candidate in the primary runoff election who  
17 receives the highest number of votes cast by the voters of the  
18 nominating party shall be the nominee of that party for that  
19 office in the general election.

20 d. The fact that the candidate who receives the highest  
21 number of votes cast for any party's nomination for an office  
22 under this subsection is a person whose name was not printed on  
23 the official primary runoff election ballot shall not affect  
24 the validity of the person's nomination as a candidate for that  
25 office in the general election.

26 Sec. 3. Section 43.66, Code 2015, is amended to read as  
27 follows:

28 **43.66 Write-in candidates.**

29 The fact that the candidate who receives the highest number  
30 of votes cast for any party's nomination for an office to  
31 which section 43.52 or 43.65 is applicable is a person whose  
32 name was not printed on the official primary election ballot  
33 shall not affect the validity of the person's nomination as a  
34 candidate for that office in the general election. However,  
35 if there is no candidate on the official primary ballot of

1 a political party for nomination to a particular office, a  
 2 write-in candidate may obtain the party's nomination to that  
 3 office in the primary if the candidate receives a number of  
 4 votes equal to at least thirty-five percent of the total vote  
 5 cast for all of that party's candidates for that office in  
 6 the last preceding primary election for which the party had  
 7 candidates on the ballot for that office. If there have been  
 8 no candidates from a political party for a seat in the general  
 9 assembly since the most recent redistricting of the general  
 10 assembly, a write-in candidate shall be considered nominated  
 11 who receives a number of votes equal to at least thirty-five  
 12 percent of the total votes cast, at the last preceding primary  
 13 election in the precincts which currently constitute the  
 14 general assembly district, for all of that party's candidates  
 15 for representative in the Congress of the United States or  
 16 who receives at least one hundred votes, whichever number is  
 17 greater. When two or more nominees are required, the division  
 18 procedure prescribed in section 43.52 shall be applied to  
 19 establish the minimum number of write-in votes necessary for  
 20 nomination. If the primary is inconclusive, the necessary  
 21 nominations shall be made in accordance with section ~~43.78,~~  
 22 subsection 1 43.52, subsection 3, or section 43.65, subsection  
 23 2, as applicable.

24 Sec. 4. Section 43.67, subsection 1, Code 2015, is amended  
 25 to read as follows:

26 1. Each candidate nominated pursuant to section 43.52  
 27 or 43.65 is entitled to have the candidate's name printed  
 28 on the official ballot to be voted at the general election  
 29 without other certificate unless the candidate was nominated  
 30 by write-in votes. Immediately after the completion of the  
 31 canvass for the primary election held under section 43.49, the  
 32 county auditor shall notify each person who was nominated by  
 33 write-in votes for a county office that the person is required  
 34 to file an affidavit of candidacy if the person wishes to be a  
 35 candidate for that office at the general election. Immediately

1 after the completion of the canvass for the primary election  
2 held under section 43.63, the secretary of state shall notify  
3 each person who was nominated by write-in votes for a state or  
4 federal office that the person is required to file an affidavit  
5 of candidacy if the person wishes to be a candidate for that  
6 office at the general election. If a person receives enough  
7 votes to be placed on a primary runoff election ballot, the  
8 county commissioner of elections or the state commissioner of  
9 elections, as appropriate, shall immediately after the canvass  
10 of the primary election notify the person that the person is  
11 required to file an affidavit of candidacy if the person wishes  
12 to be a candidate for nomination to that office at the primary  
13 runoff election. If the affidavit is not filed by 5:00 p.m.  
14 on the seventh day after the completion of the canvass, that  
15 person's name shall not be placed upon the official general  
16 election ballot or the primary election runoff ballot, as  
17 applicable. The affidavit shall be signed by the candidate,  
18 notarized, and filed with the county auditor or the secretary  
19 of state, whichever is applicable.

20 Sec. 5. Section 43.67, subsection 2, paragraph f, Code 2015,  
21 is amended to read as follows:

22 *f.* A declaration that if the candidate is elected to the  
23 office sought the candidate will qualify by taking the oath of  
24 office.

25 Sec. 6. Section 43.77, subsection 2, Code 2015, is amended  
26 to read as follows:

27 2. The primary election was inconclusive as to that office  
28 because no candidate for the party's nomination for that office  
29 received the number of votes required by ~~section 43.52,~~ section  
30 43.53, or 43.65, whichever is applicable.

31 Sec. 7. IMPLEMENTATION OF ACT. Section 25B.2, subsection  
32 3, shall not apply to this Act.

33

#### EXPLANATION

34 The inclusion of this explanation does not constitute agreement with  
35 the explanation's substance by the members of the general assembly.

1 This bill requires a primary runoff election be held to  
2 determine a party's nominee in the case of an inconclusive  
3 primary election for certain offices. Current law provides  
4 that nominations following an inconclusive primary be filled  
5 by the party's state convention, congressional district  
6 convention, party precinct committee members, county convention  
7 delegates, or county convention precinct delegates, as  
8 applicable. Under current law, an inconclusive primary  
9 occurs when there is not a sufficient number of candidates  
10 who received at least 35 percent of the vote in the primary  
11 election to fill the necessary number of nominations for an  
12 office.

13 Primary runoff elections are to be held four weeks after  
14 the primary election and are to be conducted and the results  
15 canvassed in the same manner as primary elections.

16 Relating to primary runoff elections for county offices,  
17 the bill provides that when one nominee is required, the two  
18 candidates who received the highest number of votes cast for  
19 the nomination shall be the candidates in the primary runoff  
20 election. When two or more nominees are required and the  
21 necessary number of nominations were not made at the primary  
22 election, the number of candidates in the primary runoff  
23 election shall equal one more than the remaining necessary  
24 number of nominations, and the candidates shall be the  
25 remaining candidates who received the highest number of votes  
26 cast in the primary election but who did not receive at least  
27 35 percent of the vote cast to be nominated in the primary  
28 election. The candidate or candidates who receive the highest  
29 number of votes cast by voters of the nominating party in the  
30 primary runoff election shall be the nominee or nominees of  
31 that party for that office in the general election.

32 Relating to primary runoff elections for statewide office,  
33 congressional office, and members of the general assembly,  
34 the bill provides that the two candidates who received the  
35 highest number of votes cast in the primary election shall be

1 the candidates in the primary runoff election. The candidate  
2 in the primary runoff election who receives the highest number  
3 of votes cast by voters of the nominating party shall be the  
4 nominee of that party for that office in the general election.

5 The bill requires that if a person receives enough write-in  
6 votes at an inconclusive primary election to be placed on  
7 a primary runoff election ballot, the county commissioner  
8 of elections or the state commissioner of elections, as  
9 appropriate, shall immediately after the canvass of the primary  
10 election notify the person that the person is required to  
11 file an affidavit of candidacy if the person wishes to be a  
12 candidate for nomination to that office at the primary runoff  
13 election.

14 The bill may include a state mandate as defined in Code  
15 section 25B.3. The bill makes inapplicable Code section 25B.2,  
16 subsection 3, which would relieve a political subdivision from  
17 complying with a state mandate if funding for the cost of  
18 the state mandate is not provided or specified. Therefore,  
19 political subdivisions are required to comply with any state  
20 mandate included in the bill.