

House File 2034 - Introduced

HOUSE FILE 2034

BY LOHSE

A BILL FOR

1 An Act relating to special elections to fill vacant city,
2 county, and school board offices.

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

1 Section 1. Section 69.14A, subsection 1, paragraph a,
2 subparagraph (1), Code 2020, is amended to read as follows:

3 (1) The appointment shall be for the period until the next
4 pending election as defined in [section 69.12](#), unless such
5 pending election shall occur within ninety days of a general
6 election, in which case the appointment shall be for the period
7 until the next general election, and shall be made within forty
8 days after the vacancy occurs. If the committee of county
9 officers designated to fill the vacancy chooses to proceed
10 under this paragraph, the committee shall publish notice in
11 the manner prescribed by [section 331.305](#) stating that the
12 committee intends to fill the vacancy by appointment but that
13 the electors of the district or county, as the case may be,
14 have the right to file a petition requiring that the vacancy be
15 filled by special election. The committee may publish notice
16 in advance if an elected official submits a resignation to take
17 effect at a future date. The committee may make an appointment
18 to fill the vacancy after the notice is published or after the
19 vacancy occurs, whichever is later. A person appointed to an
20 office under [this subsection](#) shall have actually resided in
21 the county which the appointee represents sixty days prior to
22 appointment.

23 Sec. 2. Section 69.14A, subsection 1, paragraph b,
24 subparagraphs (1) and (2), Code 2020, are amended to read as
25 follows:

26 (1) The committee of county officers designated to fill the
27 vacancy in [section 69.8](#) may, on its own motion, or shall, upon
28 receipt of a petition as provided in paragraph "a", call for a
29 special election to fill the vacancy in lieu of appointment,
30 except that a special election shall not be called on a date
31 within ninety days before a general election. The committee
32 shall order the special election at the earliest practicable
33 date, but giving at least thirty-two days' notice of the
34 election. A special election called under [this section](#) shall
35 be held on a Tuesday and shall not be held on the same day as a

1 school election within the county.

2 (2) However, if a vacancy ~~on the board of supervisors~~
3 occurs after the date of the primary election and ~~more~~ less
4 than ~~seventy-three~~ ninety days before the general election, a
5 special election to fill the vacancy shall not be called by the
6 committee or by petition. If the term of office in which the
7 vacancy exists will expire more than seventy days after the
8 general election, the office shall be listed on the ballot, as
9 ~~"For Board of Supervisors, To Fill Vacancy"~~ "To Fill Vacancy".
10 The person elected at the general election shall assume office
11 as soon as a certificate of election is issued and the person
12 has qualified by taking the oath of office. The person shall
13 serve the balance of the unexpired term.

14 Sec. 3. Section 69.14A, subsection 2, paragraph a,
15 subparagraph (1), Code 2020, is amended to read as follows:

16 (1) The appointment shall be for the period until the
17 next pending election as defined in section 69.12, unless
18 such pending election shall occur within ninety days of a
19 general election, in which case the appointment shall be for
20 the period until the next general election, and shall be made
21 within forty days after the vacancy occurs. If the board
22 of supervisors chooses to proceed under this paragraph, the
23 board shall publish notice in the manner prescribed by section
24 331.305 stating that the board intends to fill the vacancy
25 by appointment but that the electors of the county have the
26 right to file a petition requiring that the vacancy be filled
27 by special election. The board may publish notice in advance
28 if an elected official submits a resignation to take effect
29 at a future date. The board may make an appointment to fill
30 the vacancy after the notice is published or after the vacancy
31 occurs, whichever is later. A person appointed to an office
32 under this subsection, except for a county attorney, shall have
33 actually resided in the county which the appointee represents
34 sixty days prior to appointment. A person appointed to the
35 office of county attorney shall be a resident of the county at

1 the time of appointment.

2 Sec. 4. Section 69.14A, subsection 2, paragraph b,
3 subparagraphs (1) and (2), Code 2020, are amended to read as
4 follows:

5 (1) The board of supervisors may, on its own motion, or
6 shall, upon receipt of a petition as provided in paragraph "a",
7 call for a special election to fill the vacancy in lieu of
8 appointment, except that a special election shall not be called
9 on a date within ninety days before a general election. The
10 supervisors shall order the special election at the earliest
11 practicable date, but giving at least thirty-two days' notice
12 of the election. A special election called under **this section**
13 shall be held on a Tuesday and shall not be held on the same day
14 as a school election within the county.

15 (2) If a vacancy in an elective county office occurs
16 after the date of the primary election and ~~more~~ less than
17 ~~seventy-three~~ ninety days before the general election, a
18 special election to fill the vacancy shall not be called by the
19 board of supervisors or by petition. If the term of office
20 in which the vacancy exists will expire more than seventy
21 days after the general election, the office shall be listed
22 on the ballot with the name of the office and the additional
23 description, "To Fill Vacancy". The person elected at the
24 general election shall assume office as soon as a certificate
25 of election is issued and the person has qualified by taking
26 the oath of office. The person shall serve the balance of the
27 unexpired term.

28 Sec. 5. Section 279.7, subsection 1, Code 2020, is amended
29 to read as follows:

30 1. If a vacancy or vacancies occur among the elective
31 officers or members of a school board and the remaining members
32 of the board have not filled the vacancy within thirty days
33 after the vacancy occurs or if a valid petition is submitted
34 to the secretary of the board pursuant to section 279.6,
35 subsection 1, or when the board is reduced below a quorum,

1 the secretary of the board, or if there is no secretary, the
2 area education agency administrator, shall call a special
3 election in the district, subdistrict, or subdistricts, as the
4 case may be, to fill the vacancy or vacancies. The county
5 commissioner of elections shall publish the notices required
6 by law for special elections, and the election shall be held
7 not sooner than thirty days nor later than forty days after
8 the thirtieth day following the day the vacancy occurs, nor
9 shall the election be held within ninety days before a regular
10 school election. If the special election would be called
11 within ninety days before a regular school election, the
12 vacancy shall be filled at the regular school election. If the
13 secretary fails for more than three days to call an election,
14 the administrator shall call it.

15 Sec. 6. Section 372.13, subsection 2, paragraph a,
16 subparagraph (1), Code 2020, is amended to read as follows:

17 (1) By appointment by the remaining members of the council,
18 except that if the remaining members do not constitute a quorum
19 of the full membership, paragraph "b" shall be followed. The
20 appointment shall be made within sixty days after the vacancy
21 occurs and shall be for the period until the next regular
22 city election described in [section 376.1](#), unless there is an
23 intervening special election for that city that is more than
24 ninety days before the next regular city election described
25 in section 376.1, in which event the election for the office
26 shall be placed on the ballot at such special election. If
27 the council fails to make an appointment within sixty days
28 as required by [this subsection](#), the city clerk shall give
29 notice of the vacancy to the county commissioner and the county
30 commissioner shall call a special election to fill the vacancy
31 at the earliest practicable date but no fewer than thirty-two
32 days after the notice is received by the county commissioner.

33 Sec. 7. Section 372.13, subsection 2, paragraph b, Code
34 2020, is amended to read as follows:

35 *b.* (1) By a special election held to fill the office for

1 the remaining balance of the unexpired term. If the council
2 opts for a special election or a valid petition is filed under
3 paragraph "a", the special election may be held concurrently
4 with any pending election as provided by [section 69.12](#) that is
5 not within ninety days before a general election if by so doing
6 the vacancy will be filled not more than ninety days after
7 it occurs. Otherwise, a special election to fill the office
8 shall be called by the council at the earliest practicable
9 date, except that a special election shall not be called on a
10 date within ninety days before a general election. The council
11 shall give the county commissioner at least thirty-two days'
12 written notice of the date chosen for the special election.
13 The council of a city where a primary election may be required
14 shall give the county commissioner at least sixty days' written
15 notice of the date chosen for the special election. A special
16 election held under [this subsection](#) is subject to sections
17 376.4 through 376.11, but the dates for actions in relation
18 to the special election shall be calculated with regard to
19 the date for which the special election is called. However,
20 a nomination petition must be filed not less than twenty-five
21 days before the date of the special election and, where a
22 primary election may be required, a nomination petition must
23 be filed not less than fifty-three days before the date of the
24 special election. A vacancy for which a special election would
25 be called within ninety days of a general election shall be
26 filled at the general election.

27 (2) If there are concurrent vacancies on the council and
28 the remaining council members do not constitute a quorum of
29 the full membership, a special election shall be called by
30 the county commissioner at the earliest practicable date,
31 except that a special election shall not be called on a date
32 within ninety days of a general election. The remaining
33 council members shall give notice to the county commissioner
34 of the absence of a quorum. If there are no remaining council
35 members, the city clerk shall give notice to the county

1 commissioner of the absence of a council. If the office of
2 city clerk is vacant, the city attorney shall give notice
3 to the county commissioner of the absence of a clerk and a
4 council. Notice of the need for a special election shall be
5 given under this paragraph by the end of the following business
6 day. Vacancies for which a special election would be called
7 within ninety days of a general election shall be filled at the
8 general election.

9

EXPLANATION

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

12 This bill relates to the filling of vacant city, county, and
13 school board offices. The bill provides that an appointment
14 to fill a vacant elected county office shall expire at the
15 next general election rather than at the next pending election
16 if the pending election is within 90 days before the general
17 election. The bill also provides that if a vacancy in any
18 county office occurs after a primary election but less than 90
19 days before a general election, a special election shall not
20 be called to fill the vacancy. Instead, the vacancy will be
21 filled at the general election.

22 The bill changes the law governing elections to fill
23 vacancies in city and school board offices such that an
24 election to fill a vacancy shall not occur within 90 days of a
25 regular city or school election, respectively. A vacancy for
26 which a special election would be held within 90 days before a
27 regular city or school election shall instead be filled at the
28 regular city or school election, respectively.