

House File 2070 - Introduced

HOUSE FILE 2070

BY MITCHELL

A BILL FOR

1 An Act providing for the nonpartisan election and nomination by
2 county primary election of county officers.

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

1 Section 1. Section 39.21, Code 2020, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 5. The county officers described in
4 sections 39.17 and 39.18.

5 Sec. 2. Section 43.6, Code 2020, is amended to read as
6 follows:

7 **43.6 Nomination of U. S. senators, and state ~~and county~~**
8 **officers.**

9 1. Candidates for the office of senator in the Congress
10 of the United States, and the offices listed in [section 39.9](#),
11 ~~county supervisor, and the offices listed in section 39.17~~
12 shall be nominated in the year preceding the expiration of the
13 term of office of the incumbent.

14 ~~1.~~ 2. When a vacancy occurs in the office of senator in
15 the Congress of the United States, secretary of state, auditor
16 of state, treasurer of state, secretary of agriculture, or
17 attorney general and [section 69.13](#) requires that the vacancy
18 be filled for the balance of the unexpired term at a general
19 election, candidates for the office shall be nominated in the
20 preceding primary election if the vacancy occurs eighty-nine
21 or more days before the date of that primary election. If the
22 vacancy occurs less than one hundred four days before the date
23 of that primary election, the state commissioner shall accept
24 nomination papers for that office only until 5:00 p.m. on the
25 seventy-fourth day before the primary election, the provisions
26 of [section 43.11](#) notwithstanding. If the vacancy occurs later
27 than eighty-nine days before the date of that primary election,
28 but not less than eighty-one days before the date of the
29 general election, the nominations shall be made in the manner
30 prescribed by [this chapter](#) for filling vacancies in nominations
31 for offices to be voted for at the general election.

32 ~~2.~~ ~~When a vacancy occurs in the office of county supervisor~~
33 ~~or any of the offices listed in [section 39.17](#) and more than~~
34 ~~seventy days remain in the term of office following the next~~
35 ~~general election, the office shall be filled for the balance~~

~~1 of the unexpired term at that general election unless the
2 vacancy has been filled by a special election called more
3 than seventy-three days before the primary election. If
4 the vacancy occurs more than seventy-three days before the
5 primary election, political party candidates for that office
6 at the next general election shall be nominated at the primary
7 election. If an appointment to fill the vacancy in office is
8 made eighty-eight or more days before the primary election and
9 a petition requesting a special election has not been received
10 within fourteen days after the appointment is made, candidates
11 for the office shall be nominated at the primary election.~~

12 Sec. 3. Section 43.11, Code 2020, is amended to read as
13 follows:

14 **43.11 Filing of nomination papers.**

15 ~~Nomination papers in behalf of a candidate shall be filed:~~

16 ~~1. For an elective county office, in the office of the
17 county commissioner not earlier than ninety-two days nor later
18 than 5:00 p.m. on the sixty-ninth day before the day fixed for
19 holding the primary election.~~

20 ~~2. For Nomination papers in behalf of a candidate
21 for United States senator, for an elective state office,
22 for representative in Congress, and for member of the
23 general assembly, shall be filed in the office of the state
24 commissioner not earlier than ninety-nine days nor later than
25 5:00 p.m. on the eighty-first day before the day fixed for
26 holding the primary election.~~

27 Sec. 4. Section 43.15, subsection 3, Code 2020, is amended
28 to read as follows:

29 3. All signers, for all nominations, of each separate
30 part of a nomination paper, shall reside in the same county,
31 representative or senatorial district for members of the
32 general assembly. ~~In counties where the supervisors are
33 elected from districts, signers of nomination petitions for
34 supervisor candidates shall reside in the supervisor district
35 the candidate seeks to represent.~~

1 Sec. 5. Section 43.20, subsection 1, paragraph d, Code 2020,
2 is amended by striking the paragraph.

3 Sec. 6. Section 43.24, subsection 1, paragraph b,
4 subparagraph (2), Code 2020, is amended by striking the
5 subparagraph.

6 Sec. 7. Section 43.24, subsection 3, paragraph b, Code 2020,
7 is amended by striking the paragraph.

8 Sec. 8. Section 43.51, Code 2020, is amended to read as
9 follows:

10 **43.51 Finality of canvass.**

11 Such canvass and certificate shall be final as to all
12 candidates for nomination to any ~~elective county office or~~
13 office of a ~~subdivision of a county~~ special charter city.

14 Sec. 9. Section 43.53, Code 2020, is amended to read as
15 follows:

16 **43.53 Nominees for ~~subdivision~~ special charter city office**
17 **— write-in candidates.**

18 The nominee of each political party for any office to be
19 filled by the voters of any ~~political subdivision~~ special
20 charter city within the county shall be the person receiving
21 the highest number of votes cast in the primary election by
22 the voters of that party for the office. That person shall
23 appear as the party's candidate for the office on the general
24 election ballot. A person whose name is not printed on the
25 official primary ballot shall not be declared nominated as a
26 candidate for such office in the ~~general~~ regular city election
27 unless that person receives at least five votes. ~~Nomination of~~
28 ~~a candidate for the office of county supervisor elected from a~~
29 ~~district within the county shall be governed by section 43.52~~
30 ~~and not by this section.~~

31 Sec. 10. Section 43.66, Code 2020, is amended to read as
32 follows:

33 **43.66 Write-in candidates.**

34 The fact that the candidate who receives the highest number
35 of votes cast for any party's nomination for an office to

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

28 Sec. 11. Section 43.67, subsection 1, Code 2020, is amended
29 to read as follows:

30 1. Each candidate nominated pursuant to section ~~43.52~~
31 or 43.65 or 43A.3 is entitled to have the candidate's name
32 printed on the official ballot to be voted at the general
33 election without other certificate unless the candidate was
34 nominated by write-in votes. ~~Immediately after the completion~~
35 ~~of the canvass held under section 43.49, the county auditor~~

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

16 Sec. 12. Section 43.77, subsection 2, Code 2020, is amended
17 to read as follows:

18 2. The primary election was inconclusive as to that office
19 because no candidate for the party's nomination for that office
20 received the number of votes required by section ~~43.52~~, [43.53](#),
21 or [43.65](#), whichever is applicable.

22 Sec. 13. Section 43.77, subsection 5, Code 2020, is amended
23 by striking the subsection.

24 Sec. 14. Section 43.78, subsection 1, paragraphs d, e, and
25 f, Code 2020, are amended by striking the paragraphs.

26 Sec. 15. Section 43.78, subsection 3, Code 2020, is amended
27 by striking the subsection.

28 Sec. 16. Section 43.78, subsection 4, Code 2020, is amended
29 to read as follows:

30 4. Political party candidates for a vacant seat in
31 the United States house of representatives, ~~the board of~~
32 ~~supervisors, the elected county offices,~~ or the general
33 assembly which is to be filled at a special election called
34 pursuant to [section 69.14](#) or ~~69.14A~~ shall be nominated in the
35 manner provided by [subsection 1](#) of [this section](#) for filling a

1 vacancy on the general election ballot for the same office.
2 The name of a candidate so nominated shall be submitted in
3 writing to the appropriate commissioner, as required by section
4 43.88, at the earliest practicable time.

5 Sec. 17. Section 43.79, Code 2020, is amended to read as
6 follows:

7 **43.79 Death of candidate after time for withdrawal.**

8 The death of a candidate nominated as provided by law for any
9 office to be filled at a general election, during the period
10 beginning on the eighty-first day before the general election,
11 ~~in the case of any candidate whose nomination papers were filed~~
12 ~~with the state commissioner, or beginning on the seventy-third~~
13 ~~day before the general election, in the case of any candidate~~
14 ~~whose nomination papers were filed with the commissioner,~~
15 and ending on the last day before the general election shall
16 not operate to remove the deceased candidate's name from the
17 general election ballot. If the deceased candidate was seeking
18 the office of senator or representative in the Congress of
19 the United States, governor, attorney general, or senator or
20 representative in the general assembly ~~or county supervisor,~~
21 section 49.58 shall control. If the deceased candidate was
22 seeking any other office, and as a result of the candidate's
23 death a vacancy is subsequently found to exist, the vacancy
24 shall be filled as provided by [chapter 69](#).

25 Sec. 18. NEW SECTION. **43A.1 County primary election.**

26 At the same time and on the same ballot as the primary
27 election, and in all respects governed and conducted as
28 prescribed by law for the primary election, except as otherwise
29 provided in this chapter, there shall be conducted a county
30 primary election for the nonpartisan county offices described
31 in sections 39.17 and 39.18.

32 Sec. 19. NEW SECTION. **43A.2 Nominations — objections.**

33 1. Nomination papers in behalf of a candidate for an
34 elective county office, required pursuant to chapter 44 or 45,
35 shall be filed in the office of the county commissioner not

1 earlier than ninety-two days nor later than 5:00 p.m. on the
2 sixty-ninth day before the day fixed for holding the county
3 primary election.

4 2. In counties where the supervisors are elected from
5 districts, signers of nomination petitions for supervisor
6 candidates shall reside in the supervisor district the
7 candidate seeks to represent and be signed by eligible electors
8 who are residents of the district equal in number to at least
9 one percent of the number of registered voters in the district
10 on July 1 in the year preceding the year in which the office
11 will appear on the ballot, or by at least two hundred fifty
12 eligible electors who are residents of the county, whichever
13 is less.

14 3. Objections shall be filed with the commissioner not less
15 than sixty-four days before the date of the election.

16 Sec. 20. NEW SECTION. **43A.3 Finality of canvass.**

17 The canvass by the board of supervisors conducted pursuant
18 to section 43.49 and certification under section 43.50 shall
19 be final as to all candidates for nomination to any elective
20 county office.

21 Sec. 21. NEW SECTION. **43A.4 Nominees for county office.**

22 1. The nominees for any office to be filled by the voters
23 of the entire county, except for the nominees for county
24 supervisor when multiple county supervisors will be elected
25 at the same general election, or for the office of county
26 supervisor elected from a district within the county, shall be
27 the two persons receiving the greatest number of votes cast in
28 the county primary election by the voters, and those persons
29 shall appear on the general election ballot.

30 2. For the nominees for county supervisor to be filled
31 by the voters of the entire county when multiple county
32 supervisors will be elected at the same general election, the
33 number of nominees to appear on the election ballot shall
34 be twice the number of seats to be elected at the general
35 election. The required number of persons who receive the

1 greatest number of votes cast in the county primary election by
2 the voters of the county shall be the nominees for the general
3 election, but no candidate is nominated who fails to receive
4 thirty-five percent of the number of votes found by dividing
5 the number of votes cast by voters for the office in question
6 by the number of persons to be elected to that office. If the
7 county primary election is inconclusive under this paragraph,
8 the names of all candidates that appeared on the county primary
9 election ballot shall appear on the general election ballot.

10 3. Immediately after the completion of the canvass, the
11 county auditor shall notify each person who was nominated by
12 write-in votes for a county office that the person is required
13 to file an affidavit of candidacy if the person wishes to be
14 a candidate for that office at the general election. The
15 affidavit shall be signed by the candidate, notarized, and
16 filed with the county auditor.

17 Sec. 22. NEW SECTION. 43A.5 **Withdrawal of nominated**
18 **candidate.**

19 A candidate nominated for a county office in a county primary
20 election may withdraw as a nominee for that office on or
21 before, but not later than, the seventy-fourth day before the
22 date of the general election by so notifying the commissioner
23 in writing.

24 Sec. 23. NEW SECTION. 43A.6 **Right to place on ballot.**

25 Each candidate nominated pursuant to section 43A.3 is
26 entitled to have the candidate's name printed on the official
27 ballot to be voted for at the general election if the candidate
28 files an affidavit in the form required by section 43.67
29 not later than 5:00 p.m. on the seventh day following the
30 completion of the canvass.

31 Sec. 24. Section 49.37, subsection 4, Code 2020, is amended
32 to read as follows:

33 4. The commissioner shall arrange the ~~partisan~~ county
34 offices on the ballot with the board of supervisors first,
35 followed by the other county offices in the same sequence in

1 which they appear in section 39.17. ~~Nonpartisan~~, followed by
2 the offices shall be listed after partisan offices in section
3 39.21, in the same sequence in which they appear in that
4 section.

5 Sec. 25. Section 49.104, subsection 5, Code 2020, is amended
6 to read as follows:

7 5. One observer at a time representing any nonparty
8 political organization, any candidate nominated by petition
9 pursuant to chapter 45, or any other nonpartisan candidate
10 ~~in a city or school election~~, appearing on the ballot of the
11 election in progress. Candidates who send observers to the
12 polls shall provide each observer with a letter of appointment
13 in the form prescribed by the state commissioner.

14 Sec. 26. Section 53.23, subsection 4, Code 2020, is amended
15 to read as follows:

16 4. The room where members of the special precinct election
17 board are engaged in counting absentee ballots on the day
18 before the election pursuant to subsection 3, paragraph "c",
19 or during the hours the polls are open shall be policed so
20 as to prevent any person other than those whose presence is
21 authorized by this subsection from obtaining information
22 about the progress of the count. The only persons who may
23 be admitted to that room are the members of the board, five
24 challengers representing each political party, one observer
25 representing any nonparty political organization or any
26 candidate nominated by petition pursuant to chapter 45 or
27 ~~any other nonpartisan candidate in a city or school election~~
28 appearing on the ballot of the election in progress, one
29 observer representing persons supporting a public measure
30 appearing on the ballot and one observer representing
31 persons opposed to such measure, and the commissioner or the
32 commissioner's designee. It shall be unlawful for any of these
33 persons to communicate or attempt to communicate, directly or
34 indirectly, information regarding the progress of the count at
35 any time while the board is convened pursuant to subsection 3,

1 paragraph "c", or at any time before the polls are closed.

2 Sec. 27. Section 69.12, unnumbered paragraph 1, Code 2020,
3 is amended to read as follows:

4 ~~When~~ Except as otherwise provided in section 69.14A, when
5 a vacancy occurs in any nonpartisan elective office of a
6 political subdivision of this state, and the statutes governing
7 the office in which the vacancy occurs require that it be
8 filled by election or are silent as to the method of filling
9 the vacancy, it shall be filled pursuant to **this section**. As
10 used in **this section**, "*pending election*" means any election
11 at which there will be on the ballot either the office in
12 which the vacancy exists, or any other office to be filled or
13 any public question to be decided by the voters of the same
14 political subdivision in which the vacancy exists.

15 Sec. 28. Section 69.14A, subsection 4, Code 2020, is amended
16 by striking the subsection.

17 Sec. 29. Section 331.238, subsection 3, Code 2020, is
18 amended to read as follows:

19 3. An alternative form of county government shall provide
20 for the ~~partisan~~ nonpartisan election of its officers.

21 Sec. 30. Section 331.261, subsection 1, paragraph k, Code
22 2020, is amended to read as follows:

23 *k.* The ~~partisan~~ nonpartisan election of community
24 commonwealth government officials.

25 Sec. 31. Section 331.383, Code 2020, is amended to read as
26 follows:

27 **331.383 Duties and powers relating to elections.**

28 The board shall ensure that the county commissioner of
29 elections conducts primary, county primary, general, city,
30 school, and special elections in accordance with applicable
31 state law. The board shall canvass elections in accordance
32 with **sections 43.49 to 43.51, 43.60 to 43.62, 46.24, 50.13,**
33 **50.24 to 50.29, 50.44 to 50.47, 260C.39, 275.25, 277.20, 376.1,**
34 **376.7, and 376.9.** The board shall prepare and deliver a list
35 of persons nominated in accordance with **section 43.55**, provide

1 for a recount in accordance with [section 50.48](#), provide for
2 election precincts in accordance with [sections 49.3, 49.4, 49.6](#)
3 to [49.8](#), and [49.11](#), pay election costs as provided in section
4 [47.3](#), participate in election contests as provided in sections
5 [62.1A](#) and [62.9](#), and perform other election duties required by
6 state law. The board may provide for the use of an optical scan
7 voting system as provided in [sections 52.2, 52.3, and 52.8](#), and
8 exercise other election powers as provided by state law.

9 Sec. 32. REPEAL. Sections 43.52 and 43.54, Code 2020, are
10 repealed.

11 EXPLANATION

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

14 This bill requires that county supervisors, auditors,
15 sheriffs, treasurers, recorders, and attorneys be nominated and
16 elected on a nonpartisan basis. The bill establishes a county
17 primary election for the nomination of nonpartisan county
18 officers to the general election ballot. The county primary
19 election is required to be administered concurrently with the
20 primary election, as provided for in the bill. Under the bill,
21 the number of candidates to be nominated at the county primary
22 election is required to be twice the number of officers to
23 be elected to a particular office at the general election.
24 The candidates receiving the greatest number of votes in the
25 county primary election are nominated and entitled to have the
26 candidate's name printed on the official ballot to be voted for
27 at the general election, as provided for under the bill.

28 Under the bill, nonpartisan candidates for county office
29 and other nonpartisan candidates are extended the same rights
30 to observe elections conduct that are provided to nonpartisan
31 candidates for city and school district office under current
32 law. The bill also makes corresponding changes, and maintains
33 current law related to the conduct of partisan elections for
34 special charter cities.