

Senate File 410 - Introduced

SENATE FILE 410
BY COMMITTEE ON STATE
GOVERNMENT

(SUCCESSOR TO SF 36)

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 2019, 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 subsection, the necessary number of nominations shall be
26 made as provided by ~~section 43.78, subsection 1,~~ ~~paragraphs "d"~~
27 ~~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 on the first
10 Tuesday after the first Monday in August following the primary
11 election and shall, insofar as practicable, be conducted and
12 the results canvassed in the same 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 2019, 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 on the first
13 Tuesday after the first Monday in August following the primary
14 election and shall, insofar as practicable, be conducted and
15 the results canvassed in the same 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 2019, 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, subsection 2](#), shall
 19 be applied to establish the minimum number of write-in votes
 20 necessary for nomination. If the primary is inconclusive, the
 21 necessary nominations shall be made in accordance with section
 22 ~~43.78, subsection 1~~ [43.52, subsection 3](#), or [section 43.65,](#)
 23 [subsection 2, as applicable.](#)

24 Sec. 4. Section 43.67, subsection 1, Code 2019, 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 2019,
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 2019, 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. Under current law, an
4 inconclusive primary occurs when there is not a sufficient
5 number of candidates who received at least 35 percent of the
6 vote in the primary election to fill the necessary number
7 of nominations for an office. Current law provides that
8 nominations following an inconclusive primary be filled by the
9 party's state convention, congressional district convention,
10 party precinct committee members, county convention delegates,
11 or county convention precinct delegates, as applicable.

12 Primary runoff elections are to be held on the first Tuesday
13 after the first Monday in August following the primary election
14 and are to be conducted and the results canvassed in the same
15 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.