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:
Section 1. Section 43.52, Code 2019, is amended to read as follows:

43.52 Nominees for county office.

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

b. If no candidate receives thirty-five percent or more of the votes cast by voters of the candidate’s party for the office sought, the primary is inconclusive and the nomination shall be made as provided by section 43.78, subsection 1, paragraphs “d” and “e”, subsection 3.

2. When two or more nominees are required, as in the case of at-large elections, the nominees shall likewise be the required number of persons who receive the greatest number of votes cast in the primary election by the voters of the nominating party, but no candidate is nominated who fails to receive thirty-five percent of the number of votes found by dividing the number of votes cast by voters of the candidate’s party for the office in question by the number of persons to be elected to that office. If the primary is inconclusive under this subsection, the necessary number of nominations shall be made as provided by section 43.78, subsection 1, paragraphs “d” and “e”, subsection 3.

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

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

(2) When two or more nominees are required for an office and
the necessary number of nominations cannot be made pursuant to subsection 2, the number of candidates in the primary runoff election shall equal one more than the necessary number of nominations remaining unfilled. The candidates in the primary runoff election shall be the remaining candidates who received the highest number of votes cast in the primary election but who did not receive at least thirty-five percent of the votes cast in the primary election.

b. Primary runoff elections shall be held on the first Tuesday after the first Monday in August following the primary election and shall, insofar as practicable, be conducted and the results canvassed in the same manner as primary elections.

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

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

Sec. 2. Section 43.65, Code 2019, is amended to read as follows:

43.65 Who nominated.

1. The candidate of each political party for nomination for each office to be filled by the voters of the entire state, and for each seat in the United States house of representatives, the Iowa house of representatives and each seat in the Iowa senate which is to be filled, who receives the highest number of votes cast by the voters of that party for that nomination shall be the candidate of that party for that office in the general election. However, if there are more than two candidates for any nomination and none of the
candidates receives thirty-five percent or more of the votes cast by voters of that party for that nomination, the primary is inconclusive and the nomination shall be made as provided by section 43.78, subsection 1, paragraph “a”, “b” or “c”, whichever is appropriate subsection 2.

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

b. Primary runoff elections shall be held on the first Tuesday after the first Monday in August following the primary election and shall, insofar as practicable, be conducted and the results canvassed in the same manner as primary elections.

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

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

Sec. 3. Section 43.66, Code 2019, is amended to read as follows:

43.66 Write-in candidates.

The fact that the candidate who receives the highest number of votes cast for any party’s nomination for an office to which section 43.52 or 43.65 is applicable is a person whose name was not printed on the official primary election ballot shall not affect the validity of the person’s nomination as a candidate for that office in the general election. However, 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
after the completion of the canvass for the primary election held under section 43.63, the secretary of state shall notify each person who was nominated by write-in votes for a state or federal office that the person is required to file an affidavit of candidacy if the person wishes to be a candidate for that office at the general election. If a person receives enough votes to be placed on a primary runoff election ballot, the county commissioner of elections or the state commissioner of elections, as appropriate, shall immediately after the canvass of the primary election notify the person that the person is required to file an affidavit of candidacy if the person wishes to be a candidate for that office at the primary runoff election. If the affidavit is not filed by 5:00 p.m. on the seventh day after the completion of the canvass, that person’s name shall not be placed upon the official general election ballot or the primary election runoff ballot, as applicable. The affidavit shall be signed by the candidate, notarized, and filed with the county auditor or the secretary of state, whichever is applicable.

Sec. 5. Section 43.67, subsection 2, paragraph f, Code 2019, is amended to read as follows:

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

Sec. 6. Section 43.77, subsection 2, Code 2019, is amended to read as follows:

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

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

EXPLANATION

The inclusion of this explanation does not constitute agreement with the explanation’s substance by the members of the general assembly.
This bill requires a primary runoff election be held to determine a party's nominee in the case of an inconclusive primary election for certain offices. Under current law, an inconclusive primary occurs when there is not a sufficient number of candidates who received at least 35 percent of the vote in the primary election to fill the necessary number of nominations for an office. Current law provides that nominations following an inconclusive primary be filled by the party's state convention, congressional district convention, party precinct committee members, county convention delegates, or county convention precinct delegates, as applicable.

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

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

Relating to primary runoff elections for statewide office, congressional office, and members of the general assembly, the bill provides that the two candidates who received the highest number of votes cast in the primary election shall be
the candidates in the primary runoff election. The candidate in the primary runoff election who receives the highest number of votes cast by voters of the nominating party shall be the nominee of that party for that office in the general election. The bill requires that if a person receives enough write-in votes at an inconclusive primary election to be placed on a primary runoff election ballot, the county commissioner of elections or the state commissioner of elections, as appropriate, shall immediately after the canvass of the primary election notify the person that the person is required to file an affidavit of candidacy if the person wishes to be a candidate for nomination to that office at the primary runoff election. The bill may include a state mandate as defined in Code section 25B.3. The bill makes inapplicable Code section 25B.2, subsection 3, which would relieve a political subdivision from complying with a state mandate if funding for the cost of the state mandate is not provided or specified. Therefore, political subdivisions are required to comply with any state mandate included in the bill.