

Senate File 399 - Reprinted

SENATE FILE 399
BY COMMITTEE ON STATE
GOVERNMENT

(SUCCESSOR TO SSB 1104)

(As Amended and Passed by the Senate March 27, 2017)

A BILL FOR

1 An Act relating to the conduct of elections, including general
2 election ballot vacancies, voter registration, elections
3 administration, absentee voting, and vacancies on school
4 boards and merged area governing boards and including
5 effective date and applicability provisions.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I

CANDIDATE WITHDRAWAL

Section 1. Section 43.78, Code 2017, is amended by adding the following new subsection:

NEW SUBSECTION. 5. Any candidate nominated to fill a vacancy in accordance with this section may withdraw the candidate's nomination by a written request filed as follows:

a. In the office of the state commissioner, at least seventy-four days before the date of the election.

b. In the office of the proper commissioner, at least sixty-four days before the date of the election.

c. In the office of the state commissioner, in case of a special election to fill vacancies in Congress or the general assembly, not more than:

(1) Twenty days after the date on which the governor issues the call for a special election to be held on at least forty days' notice.

(2) Five days after the date on which the governor issues the call for a special election to be held on at least ten but less than forty days' notice.

d. In the office of the proper commissioner or the state commissioner, as applicable, in case of a special election to fill vacancies, at least twenty-five days before the day of election.

DIVISION II

VOTER REGISTRATION

Sec. 2. Section 48A.27, subsection 2, paragraph a, subparagraph (1), Code 2017, is amended to read as follows:

(1) A signed, written notice to the county commissioner in person, by mail, ~~by facsimile,~~ or by electronic ~~mail~~ submission.

DIVISION III

ELECTIONS ADMINISTRATION GENERALLY

Sec. 3. Section 49.16, subsection 5, Code 2017, is amended to read as follows:

1 5. A person shall not serve on the precinct election board
 2 as a representative of a political party if the person has
 3 changed political party affiliation from that of the political
 4 party which selected the person to serve as a precinct election
 5 official. If a precinct election official records a change
 6 of political party, the official's name shall be removed from
 7 the list of precinct election officials for that political
 8 party. The chairperson of the political party shall be
 9 notified of the vacancy and may designate a replacement. If
 10 the chairperson of another political party later designates the
 11 person as a precinct election official, the person may serve,
 12 if qualified. If a precinct election official serving on the
 13 board as a representative of a political party records a change
 14 of political party to vote absentee under chapter 53 and after
 15 voting absentee records a change of political party back to
 16 the political party the official represents on the precinct
 17 election board, the official's name shall be removed from the
 18 list of precinct election officials for that election. The
 19 chairperson of the political party shall be notified of the
 20 vacancy and may designate a replacement for that election.

21 Sec. 4. Section 49.104, subsection 7, Code 2017, is amended
 22 to read as follows:

23 7. Any person authorized by the commissioner, in
 24 consultation with the secretary of state, for the purposes of
 25 conducting and attending educational voting programs ~~for youth.~~

26 DIVISION IV

27 ABSENTEE VOTING

28 Sec. 5. Section 53.8, subsection 3, paragraph a, Code 2017,
 29 is amended to read as follows:

30 a. When an application for an absentee ballot is received
 31 by the commissioner of any county from a registered voter who
 32 is a patient in a hospital in that county, a tenant of an
 33 assisted living program in that county as shown by the list
 34 of certifications provided the commissioner under section
 35 231C.21, or a resident of any facility in that county shown to

1 be a health care facility by the list of licenses provided the
 2 commissioner under [section 135C.29](#), the absentee ballot shall
 3 be delivered to the voter and returned to the commissioner in
 4 the manner prescribed by [section 53.22](#). For purposes of this
 5 paragraph, "assisted living program" means a program certified
 6 pursuant to section 231C.3 that meets the standards for a
 7 dementia-specific assisted living program, as established by
 8 rule by the department of inspections and appeals.

9 Sec. 6. Section 53.22, Code 2017, is amended to read as
 10 follows:

11 **53.22 Balloting by confined persons.**

12 1. For purposes of this section, "assisted living program"
 13 means a program certified pursuant to section 231C.3 that meets
 14 the standards for a dementia-specific assisted living program,
 15 as established by rule by the department of inspections and
 16 appeals.

17 ~~1.~~ 2. a. (1) A registered voter who has applied for
 18 an absentee ballot, in a manner other than that prescribed
 19 by [section 53.10](#) or [53.11](#), and who is a resident, tenant, or
 20 patient in a health care facility, assisted living program, or
 21 hospital located in the county to which the application has
 22 been submitted shall be delivered the appropriate absentee
 23 ballot by two special precinct election officers, one of whom
 24 shall be a member of each of the political parties referred to
 25 in [section 49.13](#), who shall be appointed by the commissioner
 26 from the election board panel for the special precinct
 27 established by [section 53.20](#). The special precinct election
 28 officers shall be sworn in the manner provided by section
 29 49.75 for election board members, shall receive compensation
 30 as provided in [section 49.20](#), and shall perform their duties
 31 during the ten calendar days after the ballots are printed if
 32 the commissioner so elects, during the fourteen calendar days
 33 preceding the election, and on election day if all ballots
 34 requested under [section 53.8, subsection 3](#), have not previously
 35 been delivered and returned.

1 (2) If materials are prepared for the two special precinct
2 election officials, a list shall be made of all voters to whom
3 ballots are to be delivered. The list shall be sent with the
4 officials who deliver the ballots and shall include spaces
5 to indicate whether the person was present at the hospital,
6 assisted living program, or health care facility when the
7 officials arrived, whether the person requested assistance
8 from the officials, whether the person was assisted by another
9 person of the voter's choice, the time that the ballot was
10 returned to the officials, and any other notes the officials
11 deem necessary.

12 (3) The officials shall also be issued a supply of extra
13 ballots to replace spoiled ballots. Receipts shall be
14 issued in substantially the same form as receipts issued to
15 precinct election officials pursuant to [section 49.65](#). All
16 ballots shall be accounted for and shall be returned to the
17 commissioner. Separate envelopes shall be provided for the
18 return of spoiled ballots and unused ballots.

19 b. If an applicant under [this subsection](#) notifies the
20 commissioner that the applicant will not be available at the
21 health care facility, assisted living program, or hospital
22 address at any time during the ten-day period after the ballots
23 are printed, if applicable, or during the fourteen-day period
24 immediately prior to the election, but will be available there
25 at some other time prior to the election or on election day,
26 the commissioner shall direct the two special precinct election
27 officers to deliver the applicant's ballot at an appropriate
28 time preceding the election or on election day. If a person
29 who so requested an absentee ballot has been dismissed from
30 the health care facility or hospital, or is no longer a tenant
31 of the assisted living program, the special precinct election
32 officers may take the ballot to the voter if the voter is
33 currently residing in the county.

34 c. The special precinct election officers shall travel
35 together in the same vehicle and both shall be present when an

1 applicant casts an absentee ballot. If either or both of the
 2 special precinct election officers fail to appear at the time
 3 the duties set forth in [this section](#) are to be performed, the
 4 commissioner shall at once appoint some other person, giving
 5 preference to persons designated by the respective county
 6 chairpersons of the political parties described in section
 7 49.13, to carry out the requirements of [this section](#). The
 8 persons authorized by [this subsection](#) to deliver an absentee
 9 ballot to an applicant, if requested, may assist the applicant
 10 in filling out the ballot as permitted by [section 49.90](#). After
 11 the voter has securely sealed the marked ballot in the envelope
 12 provided and has subscribed to the oath, the voted absentee
 13 ballots shall be deposited in a sealed container which shall be
 14 returned to the commissioner on the same day the ballots are
 15 voted. On election day the officers shall return the sealed
 16 container by the time the polls are closed.

17 ~~2.~~ 3. Any registered voter who becomes a patient,
 18 tenant, or resident of a hospital, assisted living program,
 19 or health care facility in the county where the voter is
 20 registered to vote within three days prior to the date of any
 21 election or on election day may request an absentee ballot
 22 during that period or on election day. As an alternative
 23 to the application procedure prescribed by [section 53.2](#), the
 24 registered voter may make the request directly to the officers
 25 who are delivering and returning absentee ballots under this
 26 section. Alternatively, the request may be made by telephone
 27 to the office of the commissioner not later than four hours
 28 before the close of the polls. If the requester is found to be
 29 a registered voter of that county, these officers shall deliver
 30 the appropriate absentee ballot to the registered voter in the
 31 manner prescribed by [this section](#).

32 ~~3.~~ 4. For any election except a primary or general election
 33 or a special election to fill a vacancy under [section 69.14](#),
 34 the commissioner may, as an alternative to [subsection 1 2](#),
 35 mail an absentee ballot to an applicant under [this section](#) to

1 be voted and returned to the commissioner in accordance with
2 this chapter. [This subsection](#) only applies to applications for
3 absentee ballots from a single health care facility, assisted
4 living program, or hospital if there are no more than two
5 applications from that facility, program, or hospital.

6 ~~4.~~ 5. The commissioner shall mail an absentee ballot to
7 a registered voter who has applied for an absentee ballot and
8 who is a patient, tenant, or resident of a hospital, assisted
9 living program, or health care facility outside the county in
10 which the voter is registered to vote.

11 ~~5.~~ 6. a. If the registered voter becomes a patient,
12 tenant, or resident of a hospital, assisted living program,
13 or health care facility outside the county where the voter is
14 registered to vote within three days before the date of any
15 election or on election day, the voter may designate a person
16 to deliver and return the absentee ballot. The designee may
17 be any person the voter chooses except that no candidate for
18 any office to be voted upon for the election for which the
19 ballot is requested may deliver a ballot under [this subsection](#).
20 The request for an absentee ballot may be made by telephone
21 to the office of the commissioner not later than four hours
22 before the close of the polls. If the requester is found to
23 be a registered voter of that county, the ballot shall be
24 delivered by mail or by the person designated by the voter. An
25 application form shall be included with the absentee ballot and
26 shall be signed by the voter and returned with the ballot.

27 b. Absentee ballots voted under [this subsection](#) shall be
28 delivered to the commissioner no later than the time the polls
29 are closed on election day. If the ballot is returned by mail
30 the return envelope must be received by the time the polls
31 close, or be clearly postmarked by an officially authorized
32 postal service or bear an intelligent mail barcode traceable
33 to a date of entry into the federal mail system not later than
34 the day before the election and received by the commissioner no
35 later than the time established for the canvass by the board of

1 supervisors for that election.

2 ~~6.~~ 7. Observers representing candidates, political
3 parties, or nonparty political organizations, or observers who
4 are opponents or proponents of a ballot issue to be voted on at
5 the election are prohibited from being present at a hospital,
6 assisted living program, or health care facility during the
7 time the special precinct election officers are delivering
8 absentee ballots to the patients, tenants, or residents of such
9 hospital, assisted living program, or health care facility.

10 Sec. 7. Section 53.37, subsection 3, paragraph e, Code 2017,
11 is amended to read as follows:

12 e. Citizens of the United States who do not fall under any
13 of the categories described in paragraphs "a" through "d",
14 but who are entitled to register and vote pursuant to section
15 48A.5, subsection 4 or 5.

16 Sec. 8. NEW SECTION. **231C.21 Certification list to county**
17 **commissioner of elections.**

18 To facilitate the implementation of section 53.8, subsection
19 3, and **section 53.22**, the director shall provide to each county
20 commissioner of elections at least annually a list of each
21 certified dementia-specific assisted living program in that
22 county. The list shall include the street address or location,
23 and the mailing address if it is other than the street address
24 or location, of each program.

25 DIVISION V

26 SCHOOL ELECTIONS

27 Sec. 9. Section 260C.11, subsection 1, Code 2017, is amended
28 to read as follows:

29 1. The governing board of a merged area is a board of
30 directors composed of one member elected from each director
31 district in the area by the electors of the respective
32 district. Members of the board shall be residents of the
33 district from which elected. Successors shall be chosen at
34 the regular school elections for members whose terms expire.
35 The term of a member of the board of directors is four years

1 and commences at the organizational meeting. Vacancies on
 2 the board shall be filled at the next regular meeting of the
 3 board by appointment by the remaining members of the board. A
 4 member so chosen shall be a resident of the district in which
 5 the vacancy occurred and shall serve until a member is elected
 6 ~~pursuant to~~ at the next school election or intervening special
 7 election held for the merged area, in accordance with section
 8 69.12 to fill the vacancy for the balance of the unexpired
 9 term. A vacancy is defined in [section 277.29](#). A member shall
 10 not serve on the board of directors who is a member of a board
 11 of directors of a local school district or a member of an area
 12 education agency board.

13 Sec. 10. Section 279.6, subsection 1, paragraph b,
 14 subparagraphs (1) and (2), Code 2017, are amended to read as
 15 follows:

16 (1) If within fourteen days after publication of a notice
 17 required pursuant to paragraph "a" for a vacancy that occurs
 18 more than one hundred eighty days before the next regular
 19 school election, or after the filing period closes pursuant
 20 to section 277.4, subsection 1, for the next regular school
 21 election, there is filed with the secretary of the school board
 22 a petition requesting a special election to fill the vacancy,
 23 an appointment to fill the vacancy is temporary until a
 24 successor is elected and qualified, and the board shall call a
 25 special election pursuant to [section 279.7](#), to fill the vacancy
 26 for the remaining balance of the unexpired term.

27 (2) If within fourteen days after publication of a notice
 28 required pursuant to paragraph "a" for a vacancy that occurs one
 29 hundred eighty days or less but more than forty days before the
 30 next regular school election there is filed with the secretary
 31 of the school board a petition requesting to fill the vacancy
 32 by election, an appointment to fill the vacancy is temporary
 33 until a successor is elected and qualified, and the school
 34 board shall require that the remaining balance of the unexpired
 35 term be filled at the next regular school election.

1 Sec. 11. EFFECTIVE UPON ENACTMENT. The section of this
2 division of this Act amending section 260C.11, being deemed of
3 immediate importance, takes effect upon enactment.

4 Sec. 12. RETROACTIVE APPLICABILITY. The section of
5 this division of this Act amending section 260C.11 applies
6 retroactively to July 1, 2016.