



OFFICE OF THE IOWA SECRETARY OF STATE

To: State Government Committee
From: Carol Olson
Date: January 8, 2016
Re: Technical Bill

I. Current statutory framework for school board vacancy appointee tenure

In the State of Iowa, school board vacancies may be filled by appointment. Currently, the person appointed to fill the vacancy holds office until a successor is elected in accordance with the requirements of Iowa Code section 69.12. Iowa Code section 69.12 defines "pending election" as "any election as which there will be on the ballot either the office in which the vacancy exists, or any other office to be filled or any public question to be decided by the voters of the same political subdivision in which the vacancy exists."

II. Iowa Court of Appeals decision interpreting Iowa Code section 69.12

In 2011, the Iowa Court of Appeals decided the case *City of Bettendorf v. Moritz*.¹ The facts of this case concerned an appointment to the Bettendorf Park Board, and whether the "next 'pending election' was the upcoming general election in November 2010 or the next municipal election in November 2011."² The Court held that pursuant to Iowa Code section 69.12, "pending election" includes a pending general election. This ruling would require school board school board candidates to appear on the ballot for a general election if the vacancy occurred seventy-four or more days before the election.³ Because the precinct boundaries in other elections are incompatible with the boundaries of Iowa's school districts, this creates election scenarios that are impossible to administer.

III. Amendment proposed by the Office of the Secretary of State

The Office of the Secretary of State proposes an amendment to Iowa Code section 279.6 to address the Iowa Court of Appeals decision and its application to school board vacancies. The change to Iowa Code section 279.6 redefines the tenure of a school board vacancy appointee, by narrowing the definition of which elections the vacancy may appear on the ballot. This amendment will remove the unworkable scenario above, while still maintaining the important timing provisions contained in Iowa Code section 69.12.

¹ *City of Bettendorf v. Moritz*, 798 N.W.2d 344 (Iowa Ct. App. 2011).

² *Id.* at 345.

³ Iowa Code § 69.12(1)(a)(1) (2015).