

1 State of Arkansas
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4

As Engrossed: S2/23/11

A Bill

SENATE BILL 334

5 By: Senators Irvin, *M. Lamoureux, R. Thompson, Whitaker*
6 By: Representatives Sanders, J. Burris
7

For An Act To Be Entitled

9 AN ACT CONCERNING TIE VOTES OCCURRING AT GENERAL
10 PRIMARY ELECTIONS; AND FOR OTHER PURPOSES.
11

Subtitle

14 CONCERNING TIE VOTES OCCURRING AT GENERAL
15 PRIMARY ELECTIONS.
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17

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
19

20 SECTION 1. Arkansas Code § 7-1-101(30), concerning the definition of
21 "vacancy in nomination", is amended to read as follows:

22 (30) "Vacancy in nomination" means the circumstances in which:

23 (A) the ~~The~~ person who received the majority of votes at
24 the preferential primary election or general primary election cannot accept
25 the nomination due to death or notifies the party that he or she will not
26 accept the nomination due to serious illness, moving out of the area from
27 which the person was elected as the party's nominee, or filing for another
28 office preceding the final date for certification of nominations; or

29 (B) There is a tie vote for the same office at a general
30 primary election;
31

32 SECTION 2. Arkansas Code § 7-7-104 is amended to read as follows:

33 7-7-104. Vacancy in nomination – Alternative methods for filling – Tie
34 vote.

35 (a) ~~Nominees~~ Except as provided in subdivision (b) of this section,
36 nominees of a political party to fill a vacancy in nomination, as defined in



1 § 7-1-101, shall be declared by:

2 (1) Certificate of the chair and secretary of any convention of
3 delegates held within twenty-five (25) days of the Governor's letter
4 certifying vacancy; or

5 (2)(A) A special primary election called, held, and conducted in
6 accordance with the rules of the party.

7 (B) A special primary election may be called only if the
8 special primary election can be called, held, conducted, and certified and
9 certificates of nomination filed at least seventy (70) days before the
10 general election.

11 (b)(1) In case of a tie vote for the same office at a general primary
12 election, a vacancy in nomination for that office shall exist.

13 (2)(A) Nominees of a political party to fill a vacancy in
14 nomination resulting from a tie vote for the same office at a general primary
15 election shall be declared by certificate of the chair and secretary of an
16 appropriate convention of delegates held within twenty-five (25) days of the
17 Governor's letter certifying a vacancy.

18 (B) A convention of delegates shall be conducted in
19 accordance with the rules of the party.

20 (c)(1) When a vacancy in nomination occurs as a result of death or
21 when the person who received the majority of votes cast at the preferential
22 primary election or the general primary election notifies the state committee
23 of the political party of his or her intent to refuse nomination due to
24 serious illness, moving out of the area from which elected as the party's
25 nominee, or filing for another office, the state committee of the political
26 party shall notify the Governor within five (5) days after the date of death
27 or the date the party was notified of intent to refuse nomination as to
28 whether the party chooses to fill the vacancy in nomination at a special
29 election or a convention.

30 ~~(d)~~(2) If the party fails to notify the Governor within the five-day
31 period, the vacancy in nomination shall not be filled nor shall the vacancy
32 in nomination be filled if it occurred for any reason other than death,
33 serious illness, the candidate's moving out of the area from which elected as
34 the party's nominee, or filing for another office.

35 ~~(e)~~(d)(1) If the party notifies the Governor within the time
36 prescribed in subsection (c) of this section of the desire to have a special

1 primary election, the Governor shall issue a proclamation within five (5)
2 days calling the special election and establishing the deadline for filing as
3 a candidate for nomination, drawing for ballot position, and issuing and
4 filing certificates of nomination. The special primary election shall occur
5 no earlier than thirty (30) days nor later than sixty (60) days after the
6 filing deadline. The candidate who receives the most votes in the special
7 primary election shall be declared the nominee. There shall be no runoff
8 election. In the event of a tie for the most votes, the nominee shall be
9 determined by lot in a public meeting of the appropriate party committee.

10 (2) When the certificate of nomination is filed for a nominee
11 who is filling a vacancy in nomination, the filing authority shall
12 immediately certify the name of the nominee to the appropriate county board
13 of election commissioners.

14 ~~(f)(e)(1)~~ If the party notifies the Governor that it desires to fill
15 the vacancy in nomination by convention, the convention shall occur no later
16 than twenty-five (25) days after the notice is provided to the Governor.

17 (2) A convention shall be conducted in accordance with the rules
18 of the party.

19 ~~(g)(f)(1)~~ If the party's nominee is not selected in time to file his
20 or her certificate of nomination with the appropriate party authority at
21 least sixty-six (66) days before the general election, the nominee's name
22 shall not appear on the general election ballot but the name of the person
23 who vacated the nomination shall appear on the ballot, and votes cast for the
24 name of the person appearing on the ballot shall be counted for the nominee
25 but only if the certificate of nomination is duly filed at least thirty-five
26 (35) days before the general election.

27 (2)(A) If votes for a nominee whose name does not appear on the
28 ballot are to be counted under subdivision ~~(g)(f)(1)~~ of this section, the
29 county board of election commissioners shall post a notice at each affected
30 polling place stating each election in which a vote for the person appearing
31 on the ballot shall be counted for the nominee.

32 (B) A copy of the notice shall be included with the
33 instructions sent to absentee voters.

34
35 /s/ Irvin

36 APPROVED: 03/08/2011