

CHAPTER 154

(SB 228)

AN ACT relating to a vacancy in Congress.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 63.200 is amended to read as follows:

- (1) (a) The Governor shall fill vacancies in the office of United States Senator by appointment *and the appointee shall serve until a successor has been elected and qualified under subsection (2), (3), (4), or (5) of this section.*
- (b) *The appointee shall be selected from a list of three (3) names submitted by the state executive committee of the same political party as the Senator who held the vacant seat to be filled, shall have been continuously registered as a member of that political party since December 31 of the preceding year, and shall be named within twenty-one (21) days from the date of the list submission*
- (c) *In the event the vacant seat was held by a person who was not a member of any political party as defined under KRS 118.015, the Governor shall appoint any qualified voter who is not a member of any political party as defined under KRS 118.015.*
- (d) *Upon appointment, the Governor ~~until the next regular election at which members of the lower branch of Congress are elected, and~~ shall, under the seal of the Commonwealth, certify the appointment to the President of the Senate of the United States. The certificate of appointment shall be countersigned by the Secretary of State.*
- (2) *If a vacancy occurs more than three (3) months before the election in any year in which any regular election is held in this state, the remainder of the unexpired term shall be filled as follows:*
- (a) *Candidates for the unexpired term shall file petitions of nomination no later than the fourth Tuesday in August before the date of the scheduled regular election;*
- (b) *Petitions shall meet the requirements established under KRS 118.315 except:*
1. *The signatures of no more than one thousand (1,000) petitioners shall be required;*
 2. *The petition of nomination shall contain a selection where a candidate shall designate whether the political party affiliation, or lack of affiliation, shall be placed on the ballot with the name of the candidate; and*
 3. *The designation made under subparagraph 2. of this paragraph shall not be changed following the filing of the nomination papers;*
- (c) *The order of the names on the ballot for the candidates to be voted for shall be determined by lot at a public drawing to be held in the office of the Secretary of State at 2 p.m., prevailing time, on the Thursday following the last Tuesday in August;*
- (d) *After the order of names has been determined under paragraph (c) of this subsection, the Secretary of State shall certify to the county clerks:*
1. *The name of each candidate; and*
 2. *The party affiliation, or lack of affiliation, of the candidate if designated for inclusion on the ballot as provided in paragraph (b) of this subsection;*
- (e) *All candidates qualifying to be placed on the ballot shall be listed in a separate column or columns, or in a separate line or lines, and in a manner so that the casting of a vote for all of the candidates of a political party will not operate to cast a vote for any candidate for a vacancy in the United States Senate. The words "Vote for one" shall be printed in the appropriate location;*
- (f) *1. No candidate shall be elected to fill a vacancy at any regular election held under this subsection unless the candidate receives a majority of the votes cast in the regular election;*
2. *If no candidate receives a majority of the votes cast, a runoff election shall be held between the candidates receiving the two (2) highest numbers of votes cast in the regular election;*

3. *If a runoff election is required as provided in this paragraph, it shall be held seventy (70) days after the date of the regular election at which the two (2) candidates were selected; and*
 4. *The candidate receiving the highest number of votes cast in the runoff election to fill the vacancy shall be the candidate elected to fill the unexpired term of the office of United States Senator;*
- (g) *If a vacancy occurs in the nomination of a candidate eligible for the special election because of death, disqualification to hold the office sought, severe disabling condition, or withdrawal, the remaining candidate or candidates receiving the second highest number of votes shall be the second candidate or candidates in the special election;*
 - (h) *The order of names on the ballot of the two (2) candidates to be voted for under paragraph (f) of this subsection shall be determined by lot at a public drawing to be held in the office of the Secretary of State at 2 p.m., prevailing time, on the Thursday following the certification by the State Board of Elections under KRS 118.425;*
 - (i) *After the order of names has been determined, the Secretary of State shall give certification to the county clerks in accordance with paragraph (d) of this subsection; and*
 - (j) *The successful candidate in the special election held for the purpose of filling the unexpired term in the office of United States Senator shall take office immediately as provided under subsection (9) of this section.*
- (3) *If a vacancy occurs less than three (3) months before the regular election in any year in which any regular election is held in this state, and if a regular election is scheduled in the succeeding year, the vacancy shall be filled by appointment under subsection (1) of this section, and the unexpired term shall be filled at the regular election in the succeeding year.*
 - (4) *If a vacancy occurs less than three (3) months before the regular election in any year in which any regular election is held in this state, but no regular election is scheduled in the succeeding year, or if a vacancy occurs during any year in which no regular election is scheduled, the Governor shall issue a writ of election. The writ of election shall:*
 - (a) *Be signed by the Governor;*
 - (b) *Be issued within thirty (30) days of the occurrence of the vacancy;*
 - (c) *Set the date of the special election which shall be held no sooner than sixty (60) days, and no later than ninety (90) days, following the issuance of the writ; and*
 - (d) *Be directed to the sheriffs as required under Section 2 of this Act.*
 - (5) (a) *Candidates in any special election held under this section shall file petitions of nomination no later than forty-nine (49) days before the date of the election.*
 - (b) *Petitions shall meet the requirements established under KRS 118.315, except:*
 1. *The signatures of no more than one thousand (1,000) petitioners shall be required;*
 2. *The petition of nomination shall contain a selection where a candidate shall designate whether the political party affiliation, or lack of affiliation, shall be placed on the ballot with the name of the candidate; and*
 3. *The designation made under subparagraph 2. of this paragraph shall not be changed following the filing of the nomination papers.*
 - (c) *All candidates qualifying for the election shall be placed on the same ballot regardless of any candidate's political party affiliation, or lack of affiliation.*
 - (d) *The order of the names on the ballot for the candidates to be voted for shall be determined by lot at a public drawing to be held in the office of the Secretary of State at 2 p.m., prevailing time, no later than forty-seven (47) days before the day of the election.*
 - (e) *After the order of names has been determined under paragraph (d) of this subsection, the Secretary of State shall certify to the county clerks:*
 1. *The name of each candidate; and*

2. *The party affiliation, or lack of affiliation, of the candidate if designated for inclusion on the ballot as provided in paragraph (b) of this subsection.*
- (6) (a) *No candidate shall be elected to fill a vacancy at any special election held under subsection (5) of this section unless the candidate receives a majority of the votes cast in the special election.*
- (b) *If no candidate receives a majority of the votes cast, a special runoff election shall be held between the candidates receiving the two (2) highest numbers of votes cast in the special election.*
- (c) *If a special runoff election is required as provided in this subsection, it shall be held forty-nine (49) days after the date of the special election.*
- (d) *The candidate receiving the highest number of votes cast in the special runoff election to fill the vacancy shall be the candidate elected to fill the unexpired term of the office of United States Senator.*
- (7) *Any special election or special runoff election held under this section shall proceed in the manner prescribed in KRS 118.740 to 118.775, except as otherwise provided in this section.*
- (8) *After the returns for any election under this section have been canvassed and certified by the State Board of Elections, the Governor shall certify the election of the person elected in accordance with KRS 118.465.*
- (9) *Any person elected to fill an unexpired term in the office of United States Senator under this section shall take office immediately upon certification of the election results by the State Board of Elections and administration of the oath of office.*
- (10) *Notwithstanding any other statute to the contrary, if the unexpired term will end at the next succeeding regular election, the office shall be filled by appointment in accordance with subsection (1) of this section until the winner of the election takes office in January.*
- (11) *Notwithstanding the provisions of KRS 117.085 and any other statute to the contrary, ballots for any special election or special runoff election under this section shall be printed as soon as practicable following the certification by the Secretary of State under KRS 118.225.*

➔Section 2. KRS 118.740 is amended to read as follows:

- (1) A copy of a proclamation issued under KRS 118.710 or 118.720, or a writ of election issued under KRS **63.200 or** 118.730 shall be forwarded by mail to the sheriff of each county in the district in which the election is to be held, at least fifty-six (56) days before the election. The sheriff of each county in which an election is to be held shall give notice at least forty-nine (49) days before the day of election. If, from any cause, the sheriff cannot properly act, he shall immediately hand the writ or proclamation to the person authorized to act in his place.
- (2) If a special election is administered under KRS 118.730(2), the notice required by subsection (1) of this section shall include the location of the election.

➔Section 3. KRS 118.770 is amended to read as follows:

When a writ of election or proclamation is issued to fill a vacancy as prescribed in KRS **63.200**, 118.710, 118.720, or 118.730, independent, or political organization, or political group petitions and certificates of nomination shall be filed at least forty-nine (49) days before the day of election, and if filed with the Secretary of State shall be immediately certified by him or her to the proper county clerks, *except as may be provided under Section 1 of this Act.*

Veto overridden March 29, 2021.