

By: Dutton

H.B. No. 137

A BILL TO BE ENTITLED

AN ACT

relating to filling a vacancy in nomination by special primary election.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 145.036, Election Code, is amended to read as follows:

Sec. 145.036. FILLING VACANCY IN NOMINATION BY SPECIAL PRIMARY ELECTION. (a) Except as provided by Subsection (b), if a candidate's name is to be omitted from the ballot under Section 145.035, the political party shall conduct a special primary election in accordance with Section 172.005 [~~party's state, district, county, or precinct executive committee, as appropriate for the particular office, may nominate a replacement candidate~~] to fill the vacancy in the nomination.

(b) A political party [~~An executive committee~~] may conduct a special primary election [~~make a replacement nomination~~] following a withdrawal only if:

(1) the candidate:

(A) withdraws because of a catastrophic illness that was diagnosed after the first day after the date of the regular filing deadline for the general primary election and the illness would permanently and continuously incapacitate the candidate and prevent the candidate from performing the duties of the office sought; and

1 (B) files with the withdrawal request a
2 certificate describing the illness and signed by at least two
3 licensed physicians;

4 (2) no political party that held primary elections has
5 a nominee for the office sought by the withdrawing candidate as of
6 the time of the withdrawal; or

7 (3) the candidate has been elected or appointed to
8 fill a vacancy in another elective office or has become the nominee
9 for another office.

10 (c) Under the circumstances described by Subsection (b)(2),
11 ~~[the appropriate executive committee of]~~ each political party
12 making nominations for the general election for state and county
13 officers may hold a special primary election ~~[make a replacement~~
14 ~~nomination]~~ for the office sought by the withdrawing candidate.

15 (d) A special primary election held to fill a vacancy in a
16 nomination shall be ordered by:

17 (1) the state chair of the political party if the
18 vacancy in nomination is for a statewide or district office; or

19 (2) the county chair of the political party if the
20 vacancy in nomination is for a county or precinct office. ~~[For the~~
21 ~~purpose of filling a vacancy, a majority of the committee's~~
22 ~~membership constitutes a quorum. To be nominated, a person must~~
23 ~~receive a favorable vote of a majority of the members present.]~~

24 ~~[(c) A vacancy in a nomination for a district, county, or~~
25 ~~precinct office that was made by primary election may not be filled~~
26 ~~before the beginning of the term of office of the county executive~~
27 ~~committee members elected in the year in which the vacancy occurs.]~~

1 SECTION 2. Sections 145.037(a), (c), and (e), Election
2 Code, are amended to read as follows:

3 (a) For the name of a replacement nominee chosen at a
4 special primary election to be placed on the general election
5 ballot, the chair ordering the special primary election [~~of the~~
6 ~~executive committee making the replacement nomination~~] must
7 certify in writing the nominee's name for placement on the ballot as
8 provided by this section.

9 (c) In addition to the name of the replacement nominee, the
10 certification must include:

11 (1) the replacement nominee's residence address and
12 mailing address, if different from the residence address;

13 (2) the name of the original nominee;

14 (3) the office sought, including any place number or
15 other distinguishing number;

16 (4) the cause of the vacancy; and

17 (5) the date and result of the special primary
18 election [~~an identification of the executive committee making the~~
19 ~~replacement nomination, and~~

20 [~~(6) the date of the replacement nomination~~].

21 (e) The certification must be delivered not later than 5
22 p.m. of the 71st day before election day or as soon as practicable
23 after that time.

24 SECTION 3. Subchapter A, Chapter 172, Election Code, is
25 amended by adding Section 172.005 to read as follows:

26 Sec. 172.005. SPECIAL PRIMARY ELECTION. (a) The state
27 executive committee of each political party holding a primary

1 election shall adopt rules for the holding of a special primary
2 election to fill a vacancy in a nomination under Section 145.036.
3 To the extent possible, the rules shall incorporate the provisions
4 of this chapter and shall provide for a ranking system of candidates
5 so that the majority vote requirement can be met through a single
6 election.

7 (b) A special primary election is not subject to the
8 requirements of Section 41.001(a).

9 SECTION 4. Section 572.027(d), Government Code, is amended
10 to read as follows:

11 (d) An individual nominated to fill a vacancy in a
12 nomination as a candidate for a position as an elected officer under
13 Chapter 145, Election Code, shall file the financial statement not
14 later than the 15th day after the date the certificate of nomination
15 required by Section 145.037 [~~or 145.038~~], Election Code, is filed.

16 SECTION 5. Sections 145.038 and 171.054(e), Election Code,
17 are repealed.

18 SECTION 6. This Act takes effect September 1, 2017.