

CHAPTER 168

EDUCATION - PUBLIC SCHOOLS

HOUSE BILL 02-1245

BY REPRESENTATIVE(S) Lee, Fairbank, Garcia, Schultheis, Sinclair, Spence, Stafford, and Williams S.;
also SENATOR(S) Evans.

AN ACT**CONCERNING UTILIZATION OF PARTY COMMITTEES TO FILL VACANCIES OCCURRING ON THE STATE BOARD OF EDUCATION.**

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Repeal. 22-2-105 (5), Colorado Revised Statutes, is repealed as follows:

~~22-2-105. State board of education - composition. (5) Any vacancies that may occur by reason of death, removal, or resignation from office, or removal from the district from which elected, or when a board member is elected, qualified, and takes office for another state office, shall be filled by the state board, and the person so appointed shall serve until the next regular election providing such appointee is subject to the qualifications set forth by law. Any person appointed to fill a vacancy shall be a member of the same political party as the vacating board member. If a vacancy occurs at any time within the period that begins with the general election in November and ends the second Tuesday of January following said general election, the vacancy shall be filled by the members of the state board who are elected, qualified, and sworn in or continuing in office as of said second Tuesday of January.~~

SECTION 2. Part 1 of article 2 of title 22, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

22-2-105.5. State board of education - vacancies - definitions - procedure for filling. (1) AS USED IN THIS SECTION:

(a) "PARTY CONGRESSIONAL CENTRAL COMMITTEE" MEANS THE COMMITTEE ESTABLISHED PURSUANT TO SECTION 1-3-103 (3), C.R.S.

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(b) "STATE CENTRAL COMMITTEE" MEANS THE COMMITTEE ESTABLISHED PURSUANT TO SECTION 1-3-103 (2), C.R.S.

(2) ANY VACANCY OCCURRING ON THE STATE BOARD THAT MAY OCCUR BY REASON OF DEATH, REMOVAL, OR RESIGNATION FROM OFFICE, OR REMOVAL FROM THE DISTRICT FROM WHICH ELECTED, OR WHEN A BOARD MEMBER IS ELECTED, QUALIFIED, AND TAKES OFFICE FOR ANOTHER STATE OFFICE, SHALL BE FILLED AS PROVIDED IN THIS SECTION. ANY MEMBER SELECTED TO FILL A VACANCY PURSUANT TO THIS SECTION SHALL SERVE UNTIL THE NEXT REGULAR ELECTION PROVIDING SUCH APPOINTEE IS SUBJECT TO THE QUALIFICATIONS SET FORTH BY LAW.

(3) (a) ANY VACANCY OCCURRING ON THE STATE BOARD, OTHER THAN A VACANCY IN A SEAT FILLED BY A MEMBER ELECTED FROM THE STATE AT LARGE, SHALL BE FILLED BY THE VACANCY COMMITTEE OF THE PARTY CONGRESSIONAL CENTRAL COMMITTEE OF THE SAME POLITICAL PARTY AS THE VACATING BOARD MEMBER FOR THE CONGRESSIONAL DISTRICT REPRESENTED BY THE VACATING BOARD MEMBER. IF NO VACANCY COMMITTEE OF THE PARTY CONGRESSIONAL CENTRAL COMMITTEE EXISTS, THE PARTY CONGRESSIONAL CENTRAL COMMITTEE SHALL PERFORM THE FUNCTIONS OF THE VACANCY COMMITTEE.

(b) IF THE VACATING BOARD MEMBER WAS AFFILIATED WITH A MINOR POLITICAL PARTY, THEN THE VACANCY SHALL BE FILLED BY THE VACANCY COMMITTEE DESIGNATED IN THE CONSTITUTION OR BYLAWS OF THE MINOR POLITICAL PARTY.

(c) IF THE VACATING MEMBER WAS UNAFFILIATED WITH A POLITICAL PARTY, THEN THE VACANCY SHALL BE FILLED BY THE VACANCY COMMITTEE DESIGNATED ON THE VACATING BOARD MEMBER'S PETITION FOR NOMINATION PURSUANT TO SECTION 1-4-802 (1) (e), C.R.S.

(4) (a) THE VACANCY COMMITTEE IDENTIFIED IN SUBSECTION (3) OF THIS SECTION, BY A MAJORITY VOTE OF ITS MEMBERS PRESENT AND VOTING AT A MEETING CALLED FOR THAT PURPOSE, SHALL SELECT A PERSON WHO POSSESSES THE QUALIFICATIONS FOR A MEMBER OF THE STATE BOARD AND WHO IS AFFILIATED WITH THE SAME POLITICAL PARTY OR MINOR POLITICAL PARTY, IF ANY, OF THE VACATING BOARD MEMBER, AS SHOWN ON THE REGISTRATION BOOKS OF THE COUNTY CLERK AND RECORDER.

(b) AT LEAST SIX DAYS PRIOR TO THE MEETING AT WHICH THE VACANCY COMMITTEE SELECTS A PERSON TO FILL THE VACANCY, THE CHAIRPERSON OF THE PARTY CONGRESSIONAL CENTRAL COMMITTEE THAT SELECTED THE MEMBERS OF THE VACANCY COMMITTEE SHALL MAIL TO EACH MEMBER OF THE VACANCY COMMITTEE A WRITTEN NOTICE ANNOUNCING THE TIME AND LOCATION OF THE VACANCY COMMITTEE MEETING. MAILING OF THE NOTICE IS EFFECTIVE WHEN THE NOTICE IS PROPERLY ADDRESSED AND DEPOSITED IN THE UNITED STATES MAIL, WITH FIRST-CLASS POSTAGE PREPAID. THE VACANCY COMMITTEE MAY NOT SELECT A PERSON TO FILL THE VACANCY AT ANY MEETING FOR WHICH NOTICE IS NOT PROVIDED PURSUANT TO THIS PARAGRAPH (b).

(c) NO MEETING SHALL BE HELD UNTIL A QUORUM IS PRESENT CONSISTING OF NOT LESS THAN ONE-HALF OF THE VOTING MEMBERSHIP OF THE VACANCY COMMITTEE. NO MEMBER OF THE VACANCY COMMITTEE MAY VOTE BY PROXY.

(d) THE VACANCY COMMITTEE SHALL CERTIFY THE SELECTION TO THE SECRETARY OF STATE WITHIN TEN DAYS AFTER THE DATE THE VACANCY OCCURS. IF THE VACANCY COMMITTEE FAILS TO CERTIFY A SELECTION WITHIN TEN DAYS IN ACCORDANCE WITH THE PROVISIONS OF THIS PARAGRAPH (d), THE GOVERNOR, WITHIN FIFTEEN DAYS AFTER THE VACANCY OCCURS, SHALL FILL THE VACANCY BY APPOINTING A PERSON HAVING THE QUALIFICATIONS SET FORTH IN PARAGRAPH (a) OF THIS SUBSECTION (4). THE NAME OF THE PERSON APPOINTED BY THE GOVERNOR SHALL BE CERTIFIED TO THE SECRETARY OF STATE. THE PERSON SELECTED OR APPOINTED PURSUANT TO THIS SUBSECTION (4), AFTER HAVING QUALIFIED AND TAKEN THE OATH OF OFFICE, SHALL IMMEDIATELY ASSUME THE DUTIES OF OFFICE.

(5) (a) IN THE EVENT OF A VACANCY IN THE SEAT HELD BY THE STATE BOARD MEMBER ELECTED FROM THE STATE AT LARGE, WITHIN FIVE DAYS AFTER THE STATE BOARD RECEIVES NOTICE OF THE VACANCY, OR WITHIN FIVE DAYS AFTER THE EFFECTIVE DATE OF THE RESIGNATION, WHICHEVER IS LATER, THE SECRETARY OF THE STATE BOARD SHALL REFER THE VACANCY TO THE STATE CENTRAL COMMITTEE OF THE SAME POLITICAL PARTY AS THE VACATING STATE BOARD MEMBER. THE STATE CENTRAL COMMITTEE SHALL REFER THE MATTER TO THE STATE CENTRAL COMMITTEE EXECUTIVE COMMITTEE SELECTED PURSUANT TO SECTION 1-3-105 (2), C.R.S.

(b) IF THE VACATING BOARD MEMBER WAS AFFILIATED WITH A MINOR POLITICAL PARTY, THEN THE VACANCY SHALL BE FILLED BY THE VACANCY COMMITTEE DESIGNATED IN THE CONSTITUTION OR BYLAWS OF THE MINOR POLITICAL PARTY.

(c) IF THE VACATING MEMBER WAS UNAFFILIATED WITH A POLITICAL PARTY, THEN THE VACANCY SHALL BE FILLED BY THE VACANCY COMMITTEE DESIGNATED ON THE VACATING BOARD MEMBER'S PETITION FOR NOMINATION PURSUANT TO SECTION 1-4-802 (1) (e), C.R.S.

(6) (a) A VACANCY OCCURRING IN THE SEAT HELD BY THE STATE BOARD MEMBER ELECTED FROM THE STATE AT LARGE SHALL BE FILLED IN ACCORDANCE WITH THE PROCEDURES ESTABLISHED IN THIS SUBSECTION (6).

(b) WITHIN TEN DAYS AFTER BEING NOTIFIED BY THE SECRETARY OF THE STATE BOARD OF THE OCCURRENCE OF A VACANCY, THE VACANCY OR EXECUTIVE COMMITTEE IDENTIFIED IN SUBSECTION (5) OF THIS SECTION SHALL MEET, AND BY A MAJORITY VOTE OF ITS MEMBERS PRESENT AND VOTING AT A MEETING CALLED FOR THAT PURPOSE, SHALL NOMINATE NO FEWER THAN THREE AND NO MORE THAN FIVE CANDIDATES WHO POSSESS THE QUALIFICATIONS FOR A MEMBER OF THE STATE BOARD AND WHO ARE AFFILIATED WITH THE SAME POLITICAL PARTY OR MINOR POLITICAL PARTY, IF ANY, AS THE VACATING BOARD MEMBER, AS SHOWN ON THE REGISTRATION BOOKS OF THE COUNTY CLERK AND RECORDER. THE NAMES OF THE CANDIDATES NOMINATED SHALL BE FORWARDED TO THE SECRETARY OF THE STATE BOARD.

(c) THE STATE BOARD SHALL, WITHIN TWENTY CALENDAR DAYS AFTER RECEIVING THE NAMES FROM THE VACANCY OR EXECUTIVE COMMITTEE IDENTIFIED IN SUBSECTION (5) OF THIS SECTION INTERVIEW ALL OF THE NOMINATED CANDIDATES; EXCEPT THAT THE VACATING BOARD MEMBER SHALL NOT PARTICIPATE IN THE INTERVIEW PROCESS.

(d) AFTER COMPLETION OF THE INTERVIEWS, AND AT A DATE AND TIME

ESTABLISHED BY THE STATE BOARD, THE STATE BOARD SHALL HOLD AN OPEN MEETING TO VOTE ON THE SELECTION OF A NOMINEE TO FILL THE VACANCY. THE VACATING BOARD MEMBER SHALL NOT PARTICIPATE IN THE OPEN MEETING TO VOTE ON THE SELECTION OF A NOMINEE TO FILL THE VACANCY. NOMINEES FOR SELECTION SHALL BE LIMITED TO THE NOMINEES REFERRED TO THE STATE BOARD BY THE VACANCY OR EXECUTIVE COMMITTEE IDENTIFIED IN SUBSECTION (5) OF THIS SECTION. SELECTION OF A NOMINEE SHALL OCCUR BY A MAJORITY VOTE OF THE STATE BOARD MEMBERS PRESENT AND VOTING AT THE MEETING CALLED FOR SUCH PURPOSE. NO MEETING SHALL BE HELD UNTIL A QUORUM IS PRESENT CONSISTING OF NOT LESS THAN ONE-HALF OF THE VOTING MEMBERSHIP OF THE STATE BOARD. NO MEMBER OF THE STATE BOARD MAY VOTE BY PROXY. THE STATE BOARD SHALL CERTIFY THE SELECTION TO THE SECRETARY OF STATE WITHIN TEN DAYS AFTER THE MEETING CALLED TO MAKE THE SELECTION. THE PERSON, AFTER HAVING QUALIFIED AND TAKEN THE OATH OF OFFICE, SHALL IMMEDIATELY ASSUME THE DUTIES OF OFFICE.

(e) IN THE EVENT THAT THE STATE BOARD, AFTER REASONABLE EFFORTS TO ELECT BY A MAJORITY VOTE A NOMINEE TO FILL THE VACANCY, IS UNABLE TO ELECT A NOMINEE BY A MAJORITY VOTE, THE SELECTION OF ONE OF THE PERSONS NOMINATED PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (6) SHALL BE MADE BY THE HIGHEST ELECTED STATE OFFICIAL OF THE SAME POLITICAL PARTY AS THE VACATING BOARD MEMBER, IN THE FOLLOWING ORDER: GOVERNOR; PRESIDENT OF THE SENATE; SPEAKER OF THE HOUSE OF REPRESENTATIVES; MINORITY LEADER OF THE SENATE; MINORITY LEADER OF THE HOUSE OF REPRESENTATIVES. THE NAME OF THE NOMINEE SELECTED BY THE HIGHEST ELECTED STATE OFFICIAL SHALL BE CERTIFIED TO THE SECRETARY OF STATE. THE PERSON, AFTER HAVING QUALIFIED AND TAKEN THE OATH OF OFFICE, SHALL IMMEDIATELY ASSUME THE DUTIES OF OFFICE.

(7) IF A VACANCY ON THE STATE BOARD IS CAUSED BY THE RESIGNATION OF A MEMBER OF THE STATE BOARD AND THE LETTER OF RESIGNATION GIVES AN EFFECTIVE DATE OF RESIGNATION THAT IS LATER THAN THE DATE THE LETTER OF RESIGNATION IS SUBMITTED, THE VACANCY COMMITTEE IDENTIFIED IN SUBSECTION (3) OF THIS SECTION OR THE VACANCY OR EXECUTIVE COMMITTEE IDENTIFIED IN SUBSECTION (5) OF THIS SECTION, WHICHEVER IS APPLICABLE, MAY MEET NO MORE THAN TWENTY DAYS PRIOR TO THE EFFECTIVE DATE OF THE RESIGNATION FOR THE PURPOSE OF NOMINATING A PERSON TO FILL THE VACANCY. THE CERTIFICATION OF THE NOMINEE OF THE VACANCY OR EXECUTIVE COMMITTEE, WHICHEVER IS APPLICABLE, TO THE SECRETARY OF STATE MAY NOT BE MADE PRIOR TO THE EFFECTIVE DATE OF THE RESIGNATION AND, IF THE MEMBER OF THE STATE BOARD WITHDRAWS THE LETTER OF RESIGNATION PRIOR TO THE EFFECTIVE DATE OF THE RESIGNATION, THE PERSON NOMINATED BY THE VACANCY OR EXECUTIVE COMMITTEE, WHICHEVER IS APPLICABLE, MAY NOT BE CERTIFIED TO THE SECRETARY OF STATE.

(8) IF THE VACANCY IS CAUSED BY THE DEATH OF A MEMBER-ELECT OF THE STATE BOARD WHO HAS BEEN ELECTED TO OFFICE BUT WHO HAS NOT YET BEEN SWORN IN, THE VACANCY COMMITTEE IDENTIFIED IN SUBSECTION (3) OF THIS SECTION OR THE VACANCY OR EXECUTIVE COMMITTEE IDENTIFIED IN SUBSECTION (5) OF THIS SECTION, WHICHEVER IS APPLICABLE, SHALL MEET WITHIN TEN DAYS AFTER THE DEATH OF THE STATE BOARD MEMBER-ELECT TO FILL THE VACANCY. THE CERTIFICATION OF THE NOMINATION OF THE VACANCY OR EXECUTIVE COMMITTEE, WHICHEVER IS APPLICABLE, TO THE SECRETARY OF STATE MAY BE MADE PRIOR TO THE CONVENING OF THE STATE BOARD BUT SHALL NOT TAKE EFFECT UNTIL THE EFFECTIVE DATE OF THE

VACANCY, WHICH IS THE FIRST DAY THE STATE BOARD CONVENES.

SECTION 3. Effective date - applicability. This act shall take effect July 1, 2002, and shall apply to vacancies occurring on or after said date.

SECTION 4. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 24, 2002