

SECOND REGULAR SESSION

HOUSE BILL NO. 1442

96TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES SMITH (150) (Sponsor), DUGGER, DIEHL, SCHOELLER,
ENTLICHER, JONES (89), SCHARNHORST, CURTMAN AND KOENIG (Co-sponsors).

5150L.031

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 28.190, 29.280, 30.060, 30.070, 30.080, 105.030, 105.040, and 105.050, RSMo, and to enact in lieu thereof ten new sections relating to vacancies in certain statewide offices, with a referendum clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 28.190, 29.280, 30.060, 30.070, 30.080, 105.030, 105.040, and
2 105.050, RSMo, are repealed and ten new sections enacted in lieu thereof, to be known as
3 sections 26.016, 27.015, 28.190, 29.280, 30.060, 30.080, 105.030, 105.031, 105.040, and
4 105.050, to read as follows:

**26.016. In the case of any vacancy for any cause in the office of lieutenant governor,
2 the general assembly shall, by adoption of a concurrent resolution without the force and
3 effect of law by a majority of each chamber, appoint an acting lieutenant governor to fill
4 such vacancy for the remainder of the term in which the vacancy occurred until a successor
5 is elected and qualified at the next election scheduled for the lieutenant governor under
6 section 105.031. In cases of impeachment as provided in chapter 106, the lieutenant
7 governor shall be suspended until the impeachment is determined. If the lieutenant
8 governor is acquitted, the lieutenant governor shall be reinstated to office and the acting
9 lieutenant governor shall be relieved of the duties of the office. If the lieutenant governor
10 is convicted, the vacancy shall be filled in the same manner as provided in this section.**

**27.015. In the case of any vacancy for any cause in the office of attorney general,
2 the general assembly shall, by adoption of a concurrent resolution without the force and
3 effect of law by a majority of each chamber, appoint an acting attorney general to fill such**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

4 vacancy for the remainder of the term in which the vacancy occurred until a successor is
5 elected and qualified at the next election scheduled for the attorney general under section
6 105.031. The acting attorney general shall take charge of such office and superintend the
7 business of the office until a successor is elected and qualified. In cases of impeachment
8 as provided in chapter 106, the attorney general shall be suspended until the impeachment
9 is determined. If the attorney general is acquitted, the attorney general shall be reinstated
10 to office and the acting attorney general shall be relieved of the duties of the office. If the
11 attorney general is convicted, the vacancy shall be filled in the same manner as provided
12 in this section.

28.190. In case of death, resignation, removal from office, impeachment, or vacancy
2 from any cause in the office of secretary of state, the [governor shall immediately appoint a
3 qualified person to] **general assembly shall, by adoption of a concurrent resolution without
4 the force and effect of law by a majority of each chamber, appoint an acting secretary of
5 state to** fill such vacancy for the remainder of the term in which such vacancy occurred [and]
6 until [his] a successor is elected [or appointed, commissioned] and qualified[]; and the governor
7 shall take charge of the office and superintend its business until such person is appointed,
8 commissioned and qualified; except that in case of impeachment the governor shall appoint a
9 qualified person to serve only until such impeachment is determined, when the suspended
10 officer, if acquitted, shall be reinstated in office, or if the suspended officer is convicted, a new
11 appointment shall be made by the governor as in the case of other vacancies] **at the next election
12 scheduled for the secretary of state under section 105.031. In cases of impeachment as
13 provided in chapter 106, the secretary of state shall be suspended until the impeachment
14 is determined. If the secretary of state is acquitted, the secretary of state shall be reinstated
15 to office and the acting secretary of state shall be relieved of the duties of the office. If the
16 secretary of state is convicted, the vacancy shall be filled in the same manner as provided
17 in this section.**

29.280. When a vacancy occurs in the office of state auditor, the [governor shall
2 immediately] **general assembly shall, by adoption of a concurrent resolution without the
3 force and effect of law by a majority of each chamber,** appoint an acting auditor to fill such
4 vacancy for the residue of the term in which the vacancy occurred[, and] until [his] a successor
5 is elected [or appointed, commissioned] and qualified **at the next election scheduled for the
6 state auditor under section 105.031. The acting auditor shall take charge of such office and
7 superintend the business of the office until a successor is elected and qualified. In cases of
8 impeachment as provided in chapter 106, the auditor shall be suspended until the
9 impeachment is determined. If the auditor is acquitted, the auditor shall be reinstated to**

10 **office and the acting auditor shall be relieved of the duties of the office. If the auditor is**
11 **convicted, the vacancy shall be filled in the same manner as provided in this section.**

2 30.060. In case of death, resignation, removal from office, impeachment, or vacancy
2 from any cause[,] in the office of the state treasurer, the [governor shall] **general assembly shall,**
3 **by adoption of a concurrent resolution without the force and effect of law by a majority**
4 **of each chamber, appoint an acting state treasurer to fill such vacancy for the remainder**
5 **of the term in which such vacancy occurred until a successor is elected and qualified at the**
6 **next election scheduled for the state treasurer under section 105.031. The acting state**
7 **treasurer shall** take charge of such office and superintend the business thereof until a successor
8 is [appointed, commissioned] **elected** and qualified [except] . In case of impeachment, [when
9 no appointment shall be made until a determination of the matter is had, when, in the event of
10 an acquittal, the suspended officer shall be reinstated in office] **the state treasurer shall be**
11 **suspended until the impeachment is determined. If the state treasurer is acquitted, the**
12 **state treasurer shall be reinstated to office and the acting state treasurer shall be relieved**
13 **of the duties of the office. If the treasurer is convicted, the vacancy shall be filled in the**
14 **same manner as provided in this section.**

2 30.080. Immediately after the appointment **or election** and qualification of a state
2 treasurer, made to fill any vacancy occurring in said office, or the resumption of [his] duties by
3 said officer, after the removal of any disability or temporary suspension therefrom the general
4 assembly if in session, or, if such assembly be not in session, then the governor, shall cause a
5 settlement to be made of the accounts of the former state treasurer, or any such office ad interim,
6 remaining unsettled, and ascertain what balance, if any, is due the state or such officer, as the
7 case may be.

2 105.030. **1.** Whenever any vacancy, caused in any manner or by any means whatsoever,
2 occurs or exists in any state or county office originally filled by election of the people, other than
3 in the offices of lieutenant governor, **attorney general, secretary of state, state auditor, state**
4 **treasurer,** state senator or representative, sheriff, or recorder of deeds in the city of St. Louis,
5 the vacancy shall **only** be filled by appointment by the governor except that when a vacancy
6 occurs in the office of county assessor after a general election at which a person other than the
7 incumbent has been elected, the person so elected shall be appointed to fill the remainder of the
8 unexpired term; and the person appointed after duly qualifying and entering upon the discharge
9 of [his] **the** duties under the appointment shall continue in office until the first Monday in
10 January next following the first ensuing general election, at which general election a person shall
11 be elected to fill the unexpired portion of the term, or for the ensuing regular term, as the case
12 may be, and the person so elected shall enter upon the discharge of the duties of the office the
13 first Monday in January next following his election, except that when the term to be filled begins

14 on any day other than the first Monday in January, the appointee of the governor shall be entitled
15 to hold the office until such other date. This section shall not apply to vacancies in county
16 offices in any county which has adopted a charter for its own government under section 18,
17 article VI of the constitution. Any vacancy in the office of recorder of deeds in the city of St.
18 Louis shall be filled by appointment by the mayor of that city.

19 **2. Any vacancy occurring in the offices of lieutenant governor, attorney general,**
20 **secretary of state, state auditor, or state treasurer shall be filled by the appointment of an**
21 **acting lieutenant governor, acting attorney general, acting secretary of state, acting state**
22 **auditor, or acting state treasurer by the general assembly, or by a special election called**
23 **for such purpose under section 105.031. The general assembly shall appoint such acting**
24 **officials by adoption of a concurrent resolution without the force and effect of law by a**
25 **majority of each chamber. No person appointed by the general assembly under this**
26 **subsection shall be eligible at any time after such appointment to be a candidate for or hold**
27 **such office to which such person was appointed under this subsection.**

105.031. In the case of any vacancy for any cause in the offices of senator of the
2 **United States from this state, lieutenant governor, attorney general, secretary of state, state**
3 **auditor, or state treasurer, when such vacancy may be filled by a special election called for**
4 **such purpose no later than four months before a general election when such general**
5 **election is scheduled before the expiration date of the term of such offices as required by**
6 **section 17, article IV, Constitution of Missouri, or Amendment XVII of the Constitution**
7 **of the United States, the governor shall immediately fill such vacancy by a special election**
8 **called for such purpose. The candidate elected and qualified at such general election shall**
9 **take office on January first immediately following such election, and shall relieve any**
10 **acting official filling such vacancy of the duties of the office.**

105.040. Whenever a vacancy in the office of senator of the United States from this state
2 exists, the [governor, unless otherwise provided by law, shall appoint a person to fill such
3 vacancy, who shall continue in office until a successor shall have been duly elected and qualified
4 according to law] **general assembly shall, by adoption of a concurrent resolution without the**
5 **force and effect of law by a majority of each chamber, appoint an acting senator of the**
6 **United States to fill the vacancy for the remainder of the term in which the vacancy**
7 **occurred until a successor is elected and qualified at the next election under section**
8 **105.031.**

105.050. If any vacancy shall happen from any cause in the office of the [attorney
2 general,] circuit attorney, prosecuting attorney or assistant prosecuting attorney, the governor,
3 upon being satisfied that such vacancy exists, shall appoint some competent person to fill the
4 same until the next regular election for [attorney general,] prosecuting attorney or assistant

5 prosecuting attorney, as the case may be; provided, in the case of a vacancy in the office of
6 prosecuting attorney, if there is no qualified person in the county who can or will accept such
7 appointment, then the governor may appoint any person who possesses all the qualifications set
8 forth in section 56.010, RSMo, except the qualification as to residence.

2 [30.070. When a vacancy occurs in the office of state treasurer, the
3 governor shall immediately appoint a state treasurer to fill such vacancy for the
4 residue of the term in which the vacancy occurred, and until his successor is
5 elected or appointed, commissioned and qualified.]

2 Section B. This act is hereby submitted to the qualified voters of this state for approval
3 or rejection at an election which is hereby ordered and which shall be held and conducted on the
4 Tuesday immediately following the first Monday in November, 2012, or at a special election to
5 be called by the governor for that purpose, pursuant to the laws and constitutional provisions of
6 this state applicable to general elections and the submission of referendum measures by initiative
7 petition, and it shall become effective when approved by a majority of the votes cast thereon at
such election and not otherwise.

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