

# House Bill 3296

Sponsored by Representative HUNT; Representatives BEYER, BONAMICI, BUCKLEY, CANNON, CLEM, COWAN, C EDWARDS, GALIZIO, GREENLICK, RILEY, SHIELDS, TOMEI, WITT

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires vacancies in election or office of state Senator or state Representative occurring within one year after general election at which person was elected to be filled at special election. Directs Secretary of State to call special election on next available statutory election date that is not less than 61 days after date vacancy occurs. Specifies procedures for nominating candidates.

## A BILL FOR AN ACT

1 Relating to vacancies in legislative office; creating new provisions; and amending ORS 171.051.

2 **Be It Enacted by the People of the State of Oregon:**

3 **SECTION 1. Sections 2 and 3 of this 2007 Act are added to and made a part of ORS 171.051**  
4 **to 171.064.**

5 **SECTION 2. (1) If a vacancy in election or office of state Senator or state Representative**  
6 **occurs within one year after the date of the general election at which the state Senator or**  
7 **state Representative was elected, the Governor shall call a special election to fill that va-**  
8 **cancy. The Governor shall call the special election on the next available election day specified**  
9 **in ORS 171.185 that is not sooner than the 61st day after the date on which the vacancy oc-**  
10 **curred.**

11 **(2) At the special election to fill the vacancy in election or office of state Senator or state**  
12 **Representative, each major political party shall select its nominee for the office and certify**  
13 **the name of the nominee to the Secretary of State. Other candidates may file a certificate**  
14 **of nomination in the manner provided in ORS chapter 249.**

15 **(3) The Secretary of State by rule shall adopt a schedule specifying:**

16 **(a) The date following a vacancy by which a major political party must notify the secre-**  
17 **tary of the name of the new party's nominee; and**

18 **(b) The deadline for filing a certificate of nomination.**

19 **(4) Notwithstanding ORS 254.465, the special election shall be held by mail as provided in**  
20 **ORS 254.470.**

21 **(5) There shall be no state voters' pamphlet for any special election called under this**  
22 **section.**

23 **(6) The Secretary of State may adopt rules governing the procedures for conducting a**  
24 **special election required by this section.**

25 **SECTION 3. (1) Notwithstanding ORS 254.545, not later than 5 p.m. of the third day after**  
26 **the date of the special election called under section 2 of this 2007 Act, the county clerk shall**  
27 **deliver to the Secretary of State a copy of the abstracts for the offices voted upon at the**  
28 **special election.**

29 **(2) Notwithstanding ORS 253.135, not later than 5 p.m. of the first day after the date of**  
30

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 the special election called under section 2 of this 2007 Act, a county clerk who received a  
 2 ballot originating in another county shall forward the ballot by overnight mail or delivery  
 3 or by the most expeditious means available to the county clerk of the county from which the  
 4 ballot originated.

5 (3) Notwithstanding ORS 254.555, not later than 5 p.m. of the fourth business day after  
 6 the date of the special election called under section 2 of this 2007 Act, the Secretary of State  
 7 shall issue a proclamation declaring the election of candidates to offices or shall order re-  
 8 counts of the votes cast as provided in ORS 258.280.

9 (4)(a) Notwithstanding ORS 258.161, a recount may not be conducted for any special  
 10 election under this section unless the recount is required by ORS 258.280.

11 (b) If a recount for any special election is required by ORS 258.280, the Secretary of State  
 12 shall complete the recount as expeditiously as possible to minimize disruption to the sessions  
 13 of the Legislative Assembly and shall issue a proclamation declaring the election of a candi-  
 14 date to office upon completion of the recount.

15 (5) The cost of all special elections called under section 2 of this 2007 Act shall be paid  
 16 by the state.

17 (6) If there is a vacancy in the nomination of a candidate at a special election called un-  
 18 der section 2 of this 2007 Act, the vacancy in the nomination shall be filled in the manner  
 19 provided in ORS chapter 249 and the special election shall be held as scheduled.

20 **SECTION 4.** ORS 171.051 is amended to read:

21 171.051. (1) **Except when a special election is required under sections 2 and 3 of this 2007**  
 22 **Act**, when any vacancy occurs in the Legislative Assembly due to death or recall or by reason of  
 23 resignation filed in writing with the Secretary of State or a person is declared disqualified by the  
 24 house to which the person was elected, the vacancy shall be filled by appointment if:

25 (a) The vacancy occurs during any session of the Legislative Assembly;

26 (b) The vacancy occurs in the office of a state Representative before the 61st day before the  
 27 general election to be held during that term of office;

28 (c) The vacancy occurs in the office of a state Senator before the 61st day before the first gen-  
 29 eral election to be held during that term of office;

30 (d) The vacancy occurs in the office of a state Senator at any time after the 62nd day before the  
 31 first general election and before the 61st day before the second general election to be held during  
 32 that term of office; or

33 (e) A special session of the Legislative Assembly will be convened before a successor to the of-  
 34 fice can be elected and qualified.

35 (2) The person appointed under the provisions of subsection (1) of this section shall be a citizen  
 36 qualified to hold the office, an elector of the affected legislative district and a member of the same  
 37 political party for at least 180 days before the date on which the vacancy occurred. The political  
 38 affiliation of a person appointed under subsection (1) of this section shall be determined under ORS  
 39 236.100. The appointment shall be made by the county courts or boards of county commissioners of  
 40 the affected counties pursuant to ORS 171.060 to 171.064. When the provisions of ORS 171.060 (1)  
 41 are applicable, the appointment shall be made from a list of not fewer than three nor more than five  
 42 nominees who have signed written statements indicating that they are willing to serve furnished by  
 43 the Secretary of State. If fewer than three names of nominees are furnished, a list shall not be  
 44 considered to have been submitted and the county courts or boards of county commissioners shall  
 45 fill the vacancy. The vacancy must be filled by appointment within 30 days after its occurrence or

1 not later than the time set for the convening of the special session described in subsection (1)(e) of  
2 this section when that is the basis for filling the vacancy.

3 (3) If the appointing authority required by this section to fill the vacancy does not do so within  
4 the time allowed, the Governor shall fill the vacancy by appointment within 10 days.

5 (4) Notwithstanding any appointment under the provisions of subsection (1)(c) of this section,  
6 **and except when the vacancy is filled at a special election required under sections 2 and 3**  
7 **of this 2007 Act**, when a vacancy occurs in the office of a state Senator before the 61st day before  
8 the first general election to be held during that term of office, the remaining two years of the term  
9 of office shall be filled by the electors of the affected legislative district at the first general election.

10 (5) Candidates for the remaining two years of the term of office of a state Senator under sub-  
11 section (4) of this section shall be nominated as provided in ORS chapter 249 except as follows:

12 (a) A major political party, minor political party, assembly of electors or individual electors may  
13 select a nominee for any vacancy occurring before the 61st day before the first general election; and

14 (b) The Secretary of State shall accept certificates of nomination and notifications of nominees  
15 selected by party rule and filed with the secretary pursuant to a schedule for filing set by the Sec-  
16 retary of State but in any case not later than the 62nd day before the first general election.

17 (6) The remaining two years of the term of office of a state Senator under subsection (4) of this  
18 section will commence on the second Monday in January following the general election. Any ap-  
19 pointment under the provisions of subsection (1)(c) of this section shall expire when a successor to  
20 the office is elected and qualified.

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