

CHAPTER 389  
FORMERLY  
HOUSE BILL NO. 236  
AS AMENDED BY  
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 15 OF THE DELAWARE CODE RELATING TO SPECIAL ELECTIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Delaware Code, Title 15 by striking Chapter 71 in its entirety and substituting in lieu thereof the following:

“CHAPTER 71. SPECIAL ELECTION FOR GENERAL ASSEMBLY

§ 7101. Vacancies in General Assembly; writs of election.

Whenever there is a vacancy in either house of the General Assembly, by reason of failure to elect, ineligibility, death, resignation or otherwise, within 10 days of the creation of the vacancy a writ of election shall be issued by the presiding officer of the house in which the vacancy exists, directed to the department or departments of the county or counties in which such vacancy exists or, in case of necessity, in such other manner as shall be provided by law. Whenever there is such vacancy in either house and the General Assembly is not in session, the Governor may issue a writ of election to fill such vacancy, which writ shall be executed as a writ issued by the presiding officer of either house in case of vacancy.

§ 7102. Day for holding special election.

(a) Except as provided under subsection (b) of this section, the officer issuing the writ shall set the day for holding the special election for the vacancy in the General Assembly, but such day shall not be less than 30 nor more than 35 days next after the day of issuing the writ.

(b) If a vacancy occurs that would require a special election to be held after June 30<sup>th</sup> but before the date of the general election pursuant to subsection (a) in the year of a general election, the officer issuing the writ shall set the time for the election to fill the vacancy at the time of the general election unless the vacancy occurs after September 1<sup>st</sup> but before the general election and the office for which there is to be a special election is not on the ballot for the aforesaid general election, in which event, the officer issuing the writ shall set the time for the special election no earlier than December 12<sup>th</sup> nor later than December 20<sup>th</sup> in the year of the general election.

(c) Notwithstanding subsection (b), if a vacancy occurs that would require a special election to be held after June 30<sup>th</sup> but before the date of the general election pursuant to subsection (a) in the year of a general election, the presiding officer of the house in which the vacancy occurs may determine that a special election shall be held sooner than the date of the general election, in which event the requirements of §7101 and §7102(a) shall be followed.

§ 7103. Candidates.

(1) The county committee for each political party eligible to place candidates on the general election ballot for the most recent past general election may nominate a candidate for the special election by submitting a nomination to the department of elections for the county in which the election is to be held no later than 25 days prior to the date of the special election. If the legislative district up for election includes the area of more than one county, the county committees for each county shall agree on one candidate and the committee for the county where the candidate resides shall submit the nomination to the department of elections.

(2) A person wishing to run as an unaffiliated candidate who is eligible to hold the office up for election must file a petition in support of his or her candidacy containing the signatures of at least 1% of all voters who are registered in the legislative district as of the first day of the month preceding the month during which the vacancy was created. Such person must file the petition with the

department of elections in the county in which he or she resides no later than 25 days prior to the day of the special election.

(3) If a party eligible to place candidates on the ballot does not have a county committee in the county in which the special election is to be held, the party's state committee may make the nomination.

(4) Nominating certificates shall be in writing and, in each case, shall contain the name of each person nominated, the person's residence and the office for which the person is nominated. The chairperson for the party making such certificates shall add to his/her signature and his/her place of residence and shall acknowledge such certificate before an officer duly authorized to administer oaths, and a certificate of such acknowledgment shall be fixed to the instrument.

(5) Notwithstanding any other subsection of this section, nominations or petitions for a special election to be held on the date of the general election under the provisions of § 7102(b) shall be filed no later than September 1<sup>st</sup> or 5 days following the vacancy, whichever is later, if the office is on the general election ballot, or on the date set by the department of elections conducting the election if the election is to be held in December following the general election.

#### § 7104. Notices.

Each department conducting the election shall provide notice of the special election as follows:

(1) On the next day after receiving a writ of election, unless the same shall be a Sunday or State holiday, and then on the next business day following, each department conducting the election shall post a proclamation reciting the writ and appointing a day for holding a special election and the officer or officers to be chosen on the outside of the courthouse door of its county, the State's and the department's web site, and the State Calendar; and

(2) On the fifth, third and last day prior to the special election, each department conducting the election shall publish notice of the special election in a newspaper of general circulation that covers the legislative district up for election.

#### § 7105. Election officers and polling places.

Each department conducting the election, upon receiving a writ of election, shall appoint sufficient election officers to conduct the election and contract with the usual polling places for the legislative district for which the department is conducting the special election. If a polling place is not available, each department conducting the election shall combine the election district(s) in that polling place with the election district(s) in a nearby polling place or contract with another location. Each department conducting the election shall notify voters if their polling place is moved to another building.

#### § 7106. General election laws applicable.

(a) Every special election in a representative or senatorial district shall be provided for, opened, held, conducted and closed and the result thereof ascertained and certified in the same manner, at the same places and subject to the same laws, so far as the same may be applicable, as prescribed for the general election; unless otherwise provided for in this Chapter or elsewhere in this Title.

(b) Each department conducting the election may consolidate election districts within the same building.

#### § 7107. Board of canvass.

The Superior Court of each county in which a special election is held, as constituted under article V, § 6 of the State Constitution, shall, at 10 a.m. on the second day after such special election, convene and perform its duties, prescribed by such section, with reference to such special election, at the same place, with the same powers and in the same manner as for a general election.

#### § 7108. Term of office of one elected to fill vacancy.

The person elected to fill a vacancy in the General Assembly shall hold office for the residue of the term.

#### § 7109. Costs of special election.

All necessary costs and expenses incurred in carrying into effect a special election, unless otherwise provided by the laws of this State, including the compensation of election officers, shall be paid by funds transferred to the respective department or departments by the Office of Management and Budget.

Approved July 15, 2010