

Regular Session, 2012

HOUSE BILL NO. 1197 (Substitute for House Bill No. 893 by Representative Fannin)

BY REPRESENTATIVE FANNIN

SHERIFFS: Provides relative to the filling of a vacancy in the office of sheriff under certain circumstances

1 AN ACT

2 To amend and reenact R.S. 18:602(C) and to enact R.S. 18:602(E)(1)(c), relative to
3 vacancies in the office of sheriff; to provide for the filling of such vacancies under
4 certain circumstances; to provide relative to the eligibility of the person filling such
5 a vacancy to seek the office; to provide for retroactive application; and to provide for
6 related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 18:602(C) is hereby amended and reenacted and R.S. 18:602(E)(1)(c)
9 is hereby enacted to read as follows:

10 §602. Vacancies in certain local and municipal offices; exceptions

11 * * *

12 C.(1) When a vacancy occurs in any of the following offices, the duties of
13 the office shall be assumed by the person hereinafter designated: ~~(1)~~ (a) district
14 attorney, by the first assistant; ~~(2)~~ (b) clerk of a district court, by the chief deputy;
15 ~~(3)~~ (c) coroner, by the chief deputy; ~~(4)~~ (d) sheriff, by the chief criminal deputy,
16 except that in a parish that has both a civil sheriff and a criminal sheriff, the civil
17 sheriff by the chief civil deputy, and the criminal sheriff, by the chief criminal
18 deputy, respectively; and ~~(5)~~ (e) tax assessor, by the chief deputy assessor.

19 (2)(a) If there is no such person to assume the duties when the vacancy
20 occurs, the governing authority or authorities of the parish or parishes affected shall,
21 within ten days, appoint a person having the qualifications of the office to assume
22 the duties of the office. However, if the deadline for making the appointment falls

1 on a Saturday, Sunday, or other legal holiday, then the next day which is not a
2 Saturday, Sunday, or legal holiday shall be deemed to be the final day for making
3 such appointment.

4 (b) If the vacancy in the office of sheriff occurs after a regularly scheduled
5 election for the office of sheriff but prior to the beginning of the term and there is no
6 chief deputy sheriff as provided in Paragraph (1) of this Subsection to assume the
7 duties of the office, the parish governing authority may appoint the person who was
8 elected to the office of sheriff in the regular election to assume the duties of the
9 office in the manner provided in Subparagraph (a) of this Paragraph.

10 * * *

11 E.(1)

12 * * *

13 (c) If a sheriff is removed or suspended from office pursuant to the
14 provisions of R.S. 42:1411 or 1412 and a person is appointed to assume the duties
15 of the office pursuant to Subparagraph (C)(2)(b) of this Section, the person so
16 appointed shall be eligible in the next election as a candidate for the office to which
17 he is appointed.

18 * * *

19 Section 2. This Act is declared to be remedial and curative and therefore is to be
20 applied retroactively as well as prospectively.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Fannin

HB No. 1197

Abstract: Provides for a newly elected sheriff to be appointed to fill a vacancy in the office of sheriff for the remainder of the term under certain circumstances and clarifies that such person is eligible to seek the office in instances where the newly elected sheriff is appointed to fill a vacancy created by the removal from office of a sheriff because of a felony conviction.

Present constitution (Const. Art. V, §30) and present law (Election Code-R.S. 18:602) provides that when a vacancy occurs in the office of sheriff the duties of the office shall be assumed by the chief criminal deputy until it is filled by election as provided by law.

Provides that if there is no such person to assume the duties when the vacancy occurs, the governing authority of the parish shall appoint a qualified person to assume the duties of the office until filled by election. Present law (Election Code-R.S. 18:602) further provides that if the unexpired term is one year or less, no special election to fill the vacancy is called and the person appointed to fill the vacancy or designated to assume the duties of the office shall serve for the remainder of the term.

Present law (R.S. 42:1411 and 1412) provides that a public officer shall be removed from office for conviction of a felony during his term of office. Provides that the conviction automatically suspends the person from his public office until the conviction is final and provides for removal of the convicted public officer by judgment of the district court of the district in which he is domiciled. Provides that during the period of suspension, another qualified person shall be appointed to fulfill the duties and functions of the office. Specifies that no person so appointed shall be eligible in the next election as a candidate for the office to which he is appointed except as otherwise provided by present law (R.S. 18:602(E)(1)).

Proposed law provides that if a vacancy in the office of sheriff occurs after a regularly scheduled election but prior to the beginning of the term and there is no chief deputy sheriff to assume the office, the parish governing authority may appoint the person who was elected to the office of sheriff in the regular election to assume the duties of the office. Proposed law (R.S. 18:602(E)(1)(c)) further provides that if a sheriff is removed or suspended from office pursuant to the provisions of present law (R.S. 42:1411 or 1412) and the newly elected sheriff is appointed to assume the duties of the office pursuant to proposed law, the person so appointed shall be eligible in the next election as a candidate for the office to which he is appointed.

Provides that the provisions of the Act are remedial and curative and are to be applied retroactively as well as prospectively.

(Amends R.S. 18:602(C); Adds R.S. 18:602(E)(1)(c))