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1st Sub. H.B. 391: Vacancy Replacement Amendments

This document provides a legislative summary of the first substitute of H.B. 381, “Vacancy Replacement Amendments,” which addresses vacancies in elected office. The sponsor is seeking to address how vacancies for certain elected offices can be filled by the membership of the political party of which a prior officeholder was a member at the time of their election or appointment. The sponsor is also seeking to address the timeline for filling a vacancy for a nonpartisan office (municipal office, local school board, and special district office). Below is an overview of the key points and main sections of the bill.

Key Points

- Defines “interim vacancy period” as the time between a general election and the start of a newly elected officeholder’s term of office.
- Requires certain vacancies in elected offices to be filled by appointment of an individual selected by the political party the prior officeholder was a member of at the time of the prior officeholder’s election or appointment.
- Prohibits a local legislative body from appointing an individual to fill a vacancy in a municipal office, local school board office, or elected special district office until the interim vacancy period ends.

Vacancies for Elected Offices

Currently, certain vacancies for elected offices can be filled by appointment of an individual selected by the political party the prior officeholder is a member of at the time of resignation. The sponsor is seeking to adjust the process and require vacancies to be filled by an individual selected by the political party of which the prior officeholder was a member at the time of their election or appointment.

United States Senator

- Requires the governor to appoint an individual to temporarily fill a vacancy in the office of United States senator **who:**
 - **meets the qualifications for the office;** and
 - **is a member of the registered political party of which the prior officeholder was a member at the time of the prior officeholder’s election or appointment**

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Legislature

- Requires the governor to appoint an individual to fill the vacancy until the next general election whose **name is submitted by the party liaison of the registered political party of which the prior officeholder was a member at the time the prior officeholder was last elected or appointed**

Attorney General, State Treasurer, State Auditor, and State Board of Education

- Requires the governor to fill a vacancy for the office of attorney general, state treasurer, state auditor, or State Board of Education member until the next general election by immediately appointing the **individual whose name is submitted by the party liaison of the registered political party the prior officeholder was a member at the time the prior officeholder was last elected or appointed**

County Elected Offices

- Requires the county legislative body to give notice of the vacancy to the party liaison of the registered political party of which the **prior officeholder was a member at the time the prior officeholder was last elected or appointed**
- For vacancies for the office of county attorney or district attorney, requires the county legislative body to **give notice of the vacancy to the county central committee of the registered political party of which the prior officeholder was a member at the time the prior officeholder was last elected or appointed**

Midterm Vacancies in Municipal Offices

Currently, vacancies in nonpartisan offices (municipal office, local board office, or elected special district office) can be appointed by the local legislative body before a newly elected officeholder's term of office begins. The sponsor is seeking to adjust the process and prohibit the local legislative body from appointing an individual to fill a vacancy until a newly elected officeholder's term of office begins.

Interim Vacancy Period

- Defines "**interim vacancy period**" as the period of time that:
 - Begins the day on which an election is held to elect a municipal executive or member of a municipal legislative body; and
 - Ends on the day an individual elected to an office begins their term of office

Vacancy for Municipal Executive or Member of a Municipal Legislative Body

- Requires a municipal legislative body to:
 - **not appoint an individual to fill the vacancy during the interim vacancy period** (as defined above)
 - **appoint a registered voter who meets the qualifications for office to fill the unexpired term of the vacated office within 30 calendar days after the day the interim vacancy period ends**
 - **not take any action regarding the vacancy during an interim vacancy period** (such as notifying a clerk, giving public notice, conducting interviews of candidates, or taking an initial vote)
- Requires a council to not make an appointment to fill a vacancy for the office of mayor if the effective date of the mayor's resignation occurs during an interim vacancy period

Vacancy for Local School Board

- **Prohibits a local school board from appointing an individual to fill the vacancy during the interim vacancy period**
- Requires a county legislative body or municipal legislative body to appoint an individual to fill the vacancy if a local school board does not timely comply with the timeline provisions
- If a member submits a letter of resignation, and if the resignation does not occur during an interim vacancy period, allows a local school board to appoint an individual before the effective date of the member's resignation if the local school board makes the effective date of the appointment the same as the effective date of the member's resignation
- **Prohibits a local school board from taking any action related to the vacancy during an interim vacancy period**

Special District Boards

- Requires a vacancy on any elected special district board **to be appointed within 90 calendar days after the day on which the vacancy occurs**
- Prohibits a special district board from appointing an individual during the interim vacancy period
- Prohibits a special district board from taking any action related to the vacancy during an interim vacancy period