

SECOND REGULAR SESSION

HOUSE BILL NO. 1497

95TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES SMITH (150) (Sponsor), TILLEY, PRATT, DIECKHAUS, BROWN (149), SCHARNHORST, ALLEN, DAVIS, KRAUS, BURLISON, FUNDERBURK, NANCE, JONES (89), RUZICKA, DENISON, RUESTMAN, BIVINS, SMITH (14), SCHAD, FLANIGAN, GRISAMORE AND SCHOELLER (Co-sponsors).

4103L.01I

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 nine new sections relating to vacancies in certain statewide offices.

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2 105.050, RSMo, are repealed and nine new sections enacted in lieu thereof, to be known as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, 105.040, and 105.050, to read
4 as follows:

26.016. In the case of any vacancy for any cause in the office of lieutenant governor,
2 the governor shall immediately fill such vacancy by special election as provided in section
3 105.030 for the remainder of the term in which the vacancy occurred until a successor is
4 elected and qualified at the next election scheduled for the lieutenant governor under
5 section 17, article IV, Constitution of Missouri. The governor shall take charge of such
6 office and superintend the business of the office until a successor is elected and qualified.
7 In cases of impeachment as provided in chapter 106, the lieutenant governor shall be
8 suspended until the impeachment is determined. If the lieutenant governor is acquitted,
9 the lieutenant governor shall be reinstated to office. If the lieutenant governor is convicted,
10 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 governor shall immediately appoint an acting attorney general to fill such vacancy until

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.

3 the vacancy is filled by special election as provided in section 105.030 for the remainder of
4 the term in which the vacancy occurred until a successor is elected and qualified at the next
5 election scheduled for the attorney general under section 17, article IV, Constitution of
6 Missouri. 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. If the attorney general is convicted, the vacancy shall be filled in the same
11 manner as provided 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] fill such vacancy **by special election as provided in section 105.030** for the
4 remainder of the term in which such vacancy occurred [and] until [his] a successor is elected
5 [or appointed, commissioned] and qualified[; and] **at the next election scheduled for the**
6 **secretary of state under section 17, article IV, Constitution of Missouri.** The governor shall
7 take charge of the office and superintend its business until such person is [appointed,
8 commissioned] **elected** and qualified[; except that] . In case of impeachment **as provided in**
9 **chapter 106**, the governor shall appoint a qualified person to serve only until such impeachment
10 is determined, when the suspended officer, if acquitted, shall be reinstated in office[, or] . If the
11 suspended officer is convicted, [a new appointment shall be made] **the vacancy shall be filled**
12 by the governor as [in the case of other vacancies] **provided in this section.**

29.280. When a vacancy occurs in the office of state auditor, the governor shall
2 immediately appoint an **acting** auditor to fill such vacancy **until the vacancy is filled by special**
3 **election as provided in section 105.030** for the residue of the term in which the vacancy
4 occurred[, and] until [his] a successor is elected [or appointed, commissioned] and qualified **at**
5 **the next election scheduled for the state auditor under section 17, article IV, Constitution**
6 **of Missouri.** The acting auditor 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 auditor shall be suspended until the impeachment is
9 determined. If the auditor is acquitted, the auditor shall be reinstated to office. If the
10 auditor is convicted, the vacancy shall be filled in the same manner as provided in this
11 section.

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 **immediately fill such**
3 **vacancy by special election as provided in section 105.030 for the remainder of the term in**
4 **which such vacancy occurred until a successor is elected and qualified at the next election**

5 **scheduled for the state treasurer under section 17, article IV, Constitution of Missouri.**
6 **The governor shall** take charge of such office and superintend the business thereof until a
7 successor is [appointed, commissioned] **elected** and qualified [except] . In case of impeachment
8 **as provided in chapter 106**, when no [appointment] **election** shall be made until a
9 determination of the matter is had, when, in the event of an acquittal, the suspended officer shall
10 be reinstated in office. **If the treasurer is convicted, the vacancy shall be filled in the same**
11 **manner as provided in this section.**

30.080. Immediately after the [appointment] **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.

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 be filled by appointment by the governor except that when a vacancy occurs
6 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.

2. Any vacancy occurring in the offices of lieutenant governor, attorney general,
20 **secretary of state, state auditor, or state treasurer, except for vacancies occurring under**
21 **section 106.060, shall be filled by a special election called by the governor for that purpose.**
22 **Upon receiving the notice of vacancies occurring under this subsection, the governor shall**

23 **without delay issue a writ of election to fill the vacancy. The secretary of state shall**
24 **conduct the special election as provided in chapter 115.**

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] **fill the office by a special election called by the governor for that purpose.**
5 **Upon receiving the notice of a vacancy occurring in the office, the governor shall without**
6 **delay issue a writ of election to fill the vacancy. The secretary of state shall conduct the**
7 **special election as provided in chapter 115.**

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.

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

✓