

Special Legislative Elections

What triggers a special legislative election?

A special election for a seat in the Minnesota Legislature is held if the legislature will be in session at some point between the time the vacancy occurs and the end of the term for the vacant seat. Minn. Stat. § 204D.17, subd. 1.

When does a vacancy occur if a resignation is given for a future date?

A legislator may submit a resignation to the governor to take effect on a future date. The resignation may be withdrawn only before its written acceptance by the governor. Minn. Stat. § 351.01. Once the resignation is accepted, election authorities may begin preparations for a special election. Minn. Stat. § 351.055.

What is the timing for a special election?

A special election must be held in time for the newly elected person to begin serving during the current legislative session or at the beginning of the next session.

- If the legislature is in session when the vacancy occurs (or will be in session within 33 days of the vacancy), the election must be held within 33 days after the vacancy occurs. To accomplish this: (1) the governor must call for a special election within five days after the vacancy occurs; and (2) the special election must be held within 28 days after the governor calls for the election. (In practice, the election cannot be held sooner than 26 days after the governor calls for the election, given the time required for candidate filings, notices, and ballot and polling place preparation.) Minn. Stat. § 204D.19, subd. 2. The canvass of the election (counting of votes) must be completed within five days, excluding Sundays and legal holidays, and may be completed as quickly as in two days. Minn. Stat. § 204D.27.
- For vacancies occurring at other times, the governor may set the special election date at any time that allows the individual elected to take office when the legislature reconvenes. But the special legislative primary and election must be held at the same time as the state primary and election (i.e., in September and November of the even-numbered year) if the vacancy occurs (1) more than 150 days before the next state general election; and (2) the legislature will not be in session before the state general election. Minn. Stat. §§ 204D.19, subds. 1 and 3; 204D.21, subd. 1.

Special rules apply to a vacancy that results from an election contest brought under Minnesota Statutes, chapter 209. If the body affected passes a resolution stating it will not review court findings in the election contest, the governor must issue a writ within five days after the resolution passes. If the body does not pass a resolution, the governor must issue a writ within 22 days after the first day of the session. Minn. Stat. § 204D.19, subd. 4.

What does a governor's writ cover?

The writ states the office to be filled, the opening and closing dates for candidate filings, and the dates of the special primary and election. The statutes limit the governor's choices for these dates to some extent. For example, there must be at least a five-day candidate filing period and a seven-day notice period for the primary. Minn. Stat. § 204D.22, subs. 2 and 3. In addition, the special primary must be held at least 14 days before the special election. Minn. Stat. § 204D.21.

Finally, as noted above, the election must be set for not later than 28 days after the writ is issued if the legislature would be in session at that time. The governor immediately files the writ with the secretary of state, who sends a certified copy to county auditors in affected counties for posting. Minn. Stat. §§ 204D.21, 204D.22.

Is a public campaign subsidy available for special legislative elections?

A candidate in a special legislative election receives a subsidy in an amount equal to the general account money and the party account money that would have been available for a candidate for that office at the last general election, if two conditions are met. Minn. Stat. § 10A.315.

- First, the candidate must file a spending limit agreement with the Campaign Finance and Public Disclosure Board. The agreement must be filed by the day after the candidate files for the office, if the special election is not being held at the state general election. If the special election is held at the state general election, the agreement must be filed by September 1. Minn. Stat. § 10A.322, subd. 1, para. (d).
- Second, the candidate must raise the same amount of qualifying contributions required in a general election for the office (\$1,500 in the House; \$3,000 in the Senate). The affidavit of contributions must be filed within five days after filing the affidavit of candidacy, if the vacancy will not be filled at the state general election. If the special election is being held at the state general election, the affidavit must be filed by September 1. Minn. Stat. § 10A.323.

What other campaign finance provisions apply in special legislative elections?

The election cycle for a special legislative election begins the day the writ is issued and ends 60 days after the special election date. Minn. Stat. § 10A.01, subd. 16. A candidate at the special election must file principal campaign committee reports seven days before the special primary and ten days after the special election cycle ends. Minn. Stat. § 10A.20, subd. 2, para. (b).

The ban on regular session fundraising does not apply to a candidate at a special election from the time the person becomes a candidate until the day of the special election. Minn. Stat. § 10A.273, subd. 5. Expenditures by or on behalf of a candidate at a special election do not count as expenditures by or on behalf of the candidate in the general election. Minn. Stat. § 10A.25, subd. 2, para. (c).

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