



# OHIO LEGISLATIVE SERVICE COMMISSION

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## Bill Analysis

Abby McMahon

### **S.B. 10**

132nd General Assembly  
(As Passed by the Senate)

**Sens.** LaRose, Gardner, Beagle, Coley, Uecker, Hottinger, Peterson, Sykes, Jordan, Hite, Oelslager, Bacon, Manning, Yuko, Eklund, Huffman, Brown, Hackett, Williams, Hoagland, Balderson, Dolan, Obhof, Schiavoni, Tavares, Terhar, Thomas, Wilson

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### **BILL SUMMARY**

- Specifies that an uncontested race in a primary election must not appear on the ballot and that the candidate or candidates who have filed to run automatically receive certificates of nomination.
- Requires the race to remain on the ballot if the ballots have already been prepared and a primary election is still to be held for the party, but specifies that any votes cast in that race are void and requires the board of elections to notify voters of that fact.
- Specifies that, if a primary candidate in an uncontested race dies, withdraws, or is disqualified before the tenth day before the primary election, the political party may select a new candidate to fill the ballot vacancy.
- Specifies that, if a primary candidate in an uncontested race dies, withdraws, or is disqualified on or after the tenth day before the primary, the candidate is considered to have received the nomination, and the party may fill the ballot vacancy for the general election.
- Eliminates the requirement that the state hold a special primary election to replace a party's candidate for Congress if the special primary is uncontested.

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## CONTENT AND OPERATION

### Uncontested primary races

Under the bill, if a race in a primary election is uncontested – that is, the number of candidates for the nomination does not exceed the number of candidates to be nominated – then the race does not appear on the ballot, and the candidate or candidates who have filed to run automatically receive the nomination. The candidate or candidates must receive their certificates of nomination from the Secretary of State or the board of elections, depending on the race, as of the 65th day before the primary election. (By the 65th day before the primary, all declarations of candidacy and declarations of intent to be a write-in candidate have been filed and all protests against those declarations have been filed.) A candidate who receives an automatic nomination still must file a financial disclosure statement under the Ethics Law no later than 30 days before the primary election in the same manner as a primary candidate who appears on the ballot.

If a contested primary race becomes uncontested because one or more candidates die, withdraw, or are disqualified before the day of the primary election and those candidates are not replaced, then the race likewise does not appear on the ballot and the remaining candidate or candidates receive certificates of nomination. If the ballots have already been prepared and a primary election is to be held for that party for the purpose of nominating or electing candidates for other offices, the race is not removed from the ballot, but any votes cast in that race are void and must not be counted. The board of elections must post a notice of that fact at each polling place on Election Day and must enclose a copy of the notice with each absent voter's ballot given or mailed after the race becomes uncontested.

Existing law generally requires uncontested primary races to appear on the ballot, and votes cast in those races are counted, although those votes do not affect the outcome. However, in an odd-numbered year, if no contested primary races are to appear on the ballot, then the primary election is canceled and the candidates who filed automatically receive certificates of nomination. Only candidates who file declarations of candidacy are considered for that purpose; if, for example, one declaration of candidacy and one declaration of intent to be a write-in candidate is filed, no primary is held and the person who filed the declaration of candidacy receives the nomination.

Under continuing law, a primary election must be held in even-numbered years for each major political party for the purpose of electing the members of the parties' controlling committees, even if no contested primary races appear on the ballot. (Minor



political parties also may choose to elect their controlling committees at primary elections in even-numbered years.)<sup>1</sup>

## **Ballot vacancies**

### **Primary candidates in uncontested races**

Under the bill, if a primary candidate in an uncontested race who would have automatically received the nomination dies, withdraws, or is disqualified before the tenth day before the primary election, the candidate's party may select another candidate to fill the vacancy using the standard procedure that parties use under continuing law to fill ballot vacancies. And, any other major political party that does not have a candidate for that office may select a candidate under the ballot vacancy filling procedure.

If a primary candidate in an uncontested race dies, withdraws, or is disqualified on or after the tenth day before the primary election, that candidate is considered to have received the nomination. The candidate's political party then may fill the ballot vacancy for purposes of the general election using the continuing law procedure.

Under current law, the procedures described above apply only if a primary candidate in an uncontested race dies. If the candidate withdraws or is disqualified, the candidate's party is not provided an opportunity to replace the candidate and consequently does not have a candidate for that office on the ballot at the general election.

The bill also clarifies that the primary ballot vacancy filling procedure applies to races in which more than one candidate is to be nominated and that a write-in candidate may withdraw in the same manner as a candidate who filed a declaration of candidacy.<sup>2</sup>

### **Congressional candidates**

The bill eliminates the requirement of holding a special primary election to replace a party's candidate for Congress if the special primary is uncontested. Under continuing law, ballot vacancies in congressional primary and general elections are filled by special election instead of using the typical process by which political parties' controlling committees select a candidate to fill the vacancy. If the sole candidate in an uncontested congressional primary race dies or withdraws before the primary,

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<sup>1</sup> R.C. 102.02 and 3513.02; see also R.C. 3513.041, 3513.05, and 3517.03, not in the bill.

<sup>2</sup> R.C. 3513.30; see also R.C. 3513.31, not in the bill.



continuing law requires the state to hold a special election to nominate that party's candidate for Congress and also to nominate the candidate of any other major political party that does not have a candidate for that office.

When such a special primary is held, the bill clarifies that the Secretary of State must designate both the date of the special primary and the deadlines for filing declarations of candidacy and declarations of intent to be a write-in candidate for the special primary, since the usual deadlines are not applicable in that situation. And, under the bill, if only one person, or no one, has filed a valid declaration of candidacy, then no special primary is held, and the sole candidate, if there is one, automatically receives the nomination. The bill does not require a primary to be held between one candidate who files a declaration of candidacy and one or more write-in candidates – in that case, the candidate who filed a declaration of candidacy would receive the nomination.

Similarly, continuing law requires the state to hold a special primary election if a party's congressional candidate dies or withdraws after the primary but before the 90th day before the general election. The bill requires the Secretary of State to designate the deadlines for filing declarations of candidacy and declarations of intent to be a write-in candidate for the special primary. And, under the bill, if only one person, or no one, has filed a valid declaration of candidacy, then no special primary is held, and the sole candidate, if there is one, automatically receives the nomination.<sup>3</sup>

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## HISTORY

ACTION	DATE
Introduced	01-31-17
Reported, S. Gov't Oversight & Reform	03-08-17
Passed Senate (32-0)	03-08-17

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<sup>3</sup> R.C. 3513.301 and 3513.312.

