

SENATE ELECTIONS AFTER REDISTRICTING - FACT SHEET

I. INTRODUCTION:

Unlike some states, Iowa law does not require an election in all newly created Senate districts in the first general election after redistricting but instead establishes a mechanism for a senator, elected from a district that held an election in 2020, to “holdover” and serve a 4 year term even if the district to which that senator was elected in 2020 has likely changed following redistricting. Iowa Code section 42.4(8) establishes the guidelines and the procedure for implementing this requirement which is then reflected in the bill submitted by the Legislative Services Agency (LSA) on a proposed plan of redistricting..

Iowa Code section 42.4(8) (2021) states “Each bill embodying a plan drawn under this section shall include provisions for the election of senators to the general assemblies ...” The section proceeds to detail what provisions shall be included in the redistricting bill. Section 3 of the redistricting bill submitted by the LSA includes the provisions required by Iowa Code chapter 42 regarding the election of senators to the general assemblies which take office in 2023 and 2025. A close reading of these provisions is necessary for determining which Senate districts in the new plan will be required to hold an election in 2022, and whether that election, if required, is for either a 2 or 4 year term. It admittedly is tough to decipher.

II. KEY TERMS AND DATES: (See Iowa Code section 42.4(8))

Holdover senatorial district: For this redistricting cycle, only even-numbered Senate districts in the plan are considered a holdover senatorial district. All holdover senatorial districts will hold an election in 2024 for a four year term but an election in 2022 for a shortened two-year term may or may not be required.

Incumbent state senator: For this redistricting cycle, an incumbent state senator, only for purposes of determining Senate elections in 2022 following redistricting, means a state senator who holds office as a state senator on February 2, 2022 **and whose declared residence on that date is within the district from which the senator was last elected.** This last phrase is crucial and as a result, it is possible that not all senators on February 2, 2022 may be considered an incumbent state senator. For example, a senator who has moved out of the Senate district from which the senator was last elected as of February 2, 2022 would not be considered an incumbent state senator. Senators can’t “leapfrog” across the state and be considered an incumbent state senator. A senator may, of course, move anywhere within the district from which they were elected and be considered an incumbent state senator. Keep in mind that only incumbent state senators are examined for determining whether an election in a holdover senatorial district (even-numbered district) is required in 2022 for a shortened two-year term.

February 2, 2022: All senators who hold office on that date shall file a form, prescribed by the Secretary of State, declaring their residence as of that date. The form shall be filed with the Secretary

of State by 5:00 pm on February 2, 2022. A senator's declared residence on this date determines whether that senator is considered an "incumbent state senator."

February 16, 2022: A senator may resign from office, not later than January 2023, by filing a copy of the resignation with the Secretary of State no later than 5:00 pm on this date. The resignation does not have to be immediate and only has to be effective no later than January 2023. Only incumbent state senators who have not resigned as described in this paragraph shall be examined for determining whether an election in a holdover senatorial district is required in 2022.

III. ODD-NUMBERED DISTRICTS IN NEW PLAN:

All odd-numbered districts in the new plan will hold an election for a 4 year term in 2022 regardless of which currently elected senators reside in these districts. For example, a senator who was elected from an even-numbered district and who now resides in an odd-numbered district will still be required to seek reelection from that odd-numbered district in 2022. The senator who was elected from an even-numbered district is not eligible to "holdover" and serve an additional 4 years without an election in 2022 - no senator gets a 6 year term.

IV. EVEN-NUMBERED DISTRICTS IN NEW PLAN:

All even-numbered Senate districts in the new plan will hold an election for a 4 year term in 2024. The key question, which Iowa law provides for, is whether an election in 2022 is required or whether a senator, who now resides in that new even-numbered district, is allowed to "holdover" until 2024 and not be subject to an election in 2022.

A. Which senators are eligible to "holdover" and not be required to seek election in an even-numbered district in 2022 for a shortened two-year term?

Only "incumbent state senators" who were last elected from an even-numbered Senate district in the old plan. A state senator who now resides in a new even-numbered district but who was last elected from an odd-numbered Senate district in the old plan is not eligible to "holdover" and not be required to seek reelection until 2024 in that new even-numbered district - No senator is entitled to a 6 year term.

B. Election not required. An even-numbered Senate district in the new plan will not be required to conduct an election in 2022 for a shortened 2-year term only if ALL of the following criteria are met:

(1) Only one "incumbent state senator" resides in that even-numbered Senate district as of February 2, 2022, OR, if more than one "incumbent state senator" resides in that district as of that date, all but one of the incumbent state senators resigns from office effective no later than January 2023 by February 16, 2022.

(2) The last remaining "incumbent state senator" who has not resigned as of February 16, 2022 was last elected from an even-numbered district in the old plan.

(3) The district in the new plan that contained the residence of the last remaining incumbent state senator when the senator was last elected is the same or contiguous to the district in the new plan that contains the declared residence of the last remaining incumbent state senator on February 2, 2022. This covers the situation where an incumbent State senator may have moved within the boundaries of the district from which the senator was last elected - the senator remains an incumbent state senator but may not satisfy this requirement. Failing the “same or contiguous” requirement has not occurred in the past to the best of my knowledge. An example of how this “contiguity” issue might fail to be met based on the current redistricting plan and the first proposed plan would be if a senator resided in Emmet county (current District 4) but moved to Wright county (still within current District 4) as of February 2, 2022. While that senator would be considered an “incumbent state senator”, the district in the “new” plan that contains the residence of the senator when the senator was last elected (new District 3) is not contiguous to the district that contains the residence of the senator as of February 2, 2022 (new District 25). As a result, that senator could not “holdover” in the new district (if that district had an even-number) and avoid an election in 2022. Of course, the example would only be applicable if the new district containing the senator’s residence in Wright county was an even number.

C. Election Required. If ANY of the criteria under **IV. B** are not met, an election in 2022 for a shortened two-year term is required. As a result, an election in 2022 is required for an even-numbered district under any of the following circumstances:

- (1) No incumbent state senator resides in that district as of February 2, 2022.
- (2) An incumbent state senator who was elected from an odd-numbered district and who does not resign by February 16, 2022 resides in that district.
- (3) More than one incumbent state senator, who have not resigned, reside in that district as of February 2, 2022.
- (4) If only one incumbent state senator who was elected from an even-numbered district resides in that district on February 2, 2022, but the district in the plan that contains the residence of the senator when the senator was last elected is not the same or contiguous to the district in the plan that contains the residence of the senator on February 2, 2022. This scenario, as explained previously, is highly unlikely.

V. FREQUENTLY ASKED QUESTIONS:

A. *Who determines whether an election in an even-numbered district is required in 2022?*

The Secretary of State (state commissioner of elections) makes this determination. The Legislative Services Agency is not the final arbiter of whether an election is required.

B. *Does a senator announcing plans that they will not seek reelection constitute a resignation for purposes of determining whether an election in an even-numbered district in 2022 for a 2 year term is required?*

No - the statute and bill are explicit - only a resignation filed with the Secretary of State by February 16, 2022 is sufficient.

C. *Does a resignation by February 16, 2022 have to be effective immediately to allow for the remaining senator to be a holdover senator not subject to an election?*

NO! The resignation filed by February 16, 2022 does not have to become effective until no later than January 2023. The senator can remain serving in the current General Assembly until such time. I would make sure that whatever is filed with the Secretary of State is explicit as to when the resignation becomes effective. My recollection is that in 2011, Sen. Kibbie and Sen. Ward both resigned which resignation took effect by the following January, allowing the remaining senator in that new district to be a holdover senator.

D. *Does a resignation make one ineligible to run for a state Senate or state House seat for the 2023 (or later) general assembly?*

No. The Iowa Code does not provide that a resignation makes one ineligible for future elections.

E. *Do paired incumbent state senators (of different parties, for example) in a new even-numbered district to which an election is required in 2022 get a pass to the general election without a primary election?*

No. Once an election is required, all the rules governing that election, including filing requirements, primary elections, etc., apply. The Iowa Code makes no exception for this situation once a determination is made that an election is required.

F. *Can events after February 16, 2022 change whether an election in an even-numbered district is required in 2022?*

No - whether a senator moves, resigns, or dies (let's hope not!) after February 16, 2022 does not change the determination made as of that date.