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FILLING LEGISLATIVE VACANCIES

House Joint Resolution CC (Substitute H-1) First Analysis (5-27-98)

Sponsor: Rep. Gloria Schermesser
Committee: Local Government

THE APPARENT PROBLEM:

Critics say that governors of both parties have in the past waited too long to call for elections to fill vacancies in legislative seats. Three times over the past ten years, legislative seats have remained empty for over 200 days. (This includes the current Senate vacancy for the Third District, which will not be filled until November.) On four other occasions, seats have gone unfilled for over 150 days. A vacant legislative seat leaves the people in that district without representation. In the past, legislation has been introduced to address this, but has been criticized as being in conflict with the state constitution. This session, legislation was introduced in tandem with an amendment to the state constitution.

THE CONTENT OF THE RESOLUTION:

The resolution would amend Article V, Section 13 of the state constitution to specify, "if a vacancy occurs in the office of state senator or representative, the governor shall direct that the vacancy be filled in accordance with the requirements contained in Michigan Election Law."

Currently, that section of the constitution says, "The governor shall issue writs of election to fill vacancies in the senate or house of representatives. Any such election shall be held in a manner prescribed by law."

(The Michigan Election Law currently says, "Except as otherwise provided in the section, when a vacancy occurs in the officer of senator or representative in the state legislature, the governor may call a special election in that senatorial or representative district or direct that the vacancy be filled at the next general election.")

The proposed amendment would be submitted to the voters at the next general election.

Article V, Section 13

FISCAL IMPLICATIONS:

There is no information at present.

ARGUMENTS:

For:

The joint resolution would amend the state constitution to require the governor to call an election to fill a vacancy in the state legislature "in accordance with the requirements contained in the Michigan Election Law." Subsequently, the legislature will have to decide how the election law is to deal with the filling of vacancies. Critics of the current constitutional and statutory provisions say that legislative seats have often remained empty for too long. (One recent proposal would have required a general election no later than 95 days after the date of the vacancy, with that stretchable for no more than an additional 30 days if a previously scheduled election was to be held within that time.)

POSITIONS:

There are no positions on the resolution.

Analyst: C. Couch

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.