

7 of 600 DOCUMENTS

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Final Edition**Requested fall vote for Senate vacancies pulled****BYLINE:** Henry Bailey baileyhank@desotoappeal.com**SECTION:** DESOTO APPEAL; Pg. DSA1**LENGTH:** 586 words

Drawing praise this time from candidates, the DeSoto County Board of Supervisors on Monday unanimously rescinded a June 4 vote that urged Gov. Phil Bryant to call a special state Senate election in conjunction with the November presidential vote.

Supervisor Lee Caldwell of Nesbit, who with Bill Russell of Walls had voted against the original election motion by Mark Gardner of Southaven, was joined by Gardner in the motion to withdraw the fall-ballot request sent to Bryant.

The new action simply calls for the "statute to be followed" and suggests elections be the same day to fill the remaining terms of Sens. Merle Flowers, R-Olive Branch, who's leaving July 11 to spend more time with family, and Tommy Woods, R-Byhalia, who cited health reasons for his planned departure on July 30.

Gardner said he brought up the fall ballot to save taxpayer money, citing a \$52,000 estimate for a special election. But he said he rethought his stand after legal advice and getting "calls from candidates and citizens," saying he shared their concern about loss of representation if the governor called a special session during a longer interim.

Mike Smith, a Democrat seeking Flowers' seat, had criticized the June 4 motion "as another example of our government bending or breaking the rules to meet their agenda." Also running are Republicans Kevin Blackwell and state Rep. Pat Nelson of Southaven, who said "the sooner, the better" for a special election.

On Monday, Smith called the vote "a welcome move. All I asked is they follow the law and do what's required."

Researching the statute, board attorney Tony Nowak noted that the governor must provide 40 days' notice of a special election to fill a legislative vacancy and must announce the election date within 30 days of the vacancy. Nowak said the latest date for an election to succeed Flowers likely would be the end of September or beginning of October - well before the presidential election; a November date could bring a legal challenge, he said.

"While there is no hard-set maximum notice period, it does provide the election shall be held as nearly 40 days out as possible," Nowak said.

The earliest date for a Flowers-Woods vacancy vote would be mid-September.

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Ozone airing

Also Monday, Gary Rikard, an environmental lawyer with the **Butler Snow** firm, met with supervisors in a closed executive session.

Afterward, he said the board appeared willing to join with the state in whatever course is chosen to battle the Environmental Protection Agency's May action placing DeSoto County in an ozone "nonattainment zone" with Memphis and Crittenden County, Ark.

"No decision has been made yet," said board attorney Tony Nowak.

The options include a petition for judicial review to either the District of Columbia Circuit or the New Orleans-based 5th Circuit Court of Appeals, and/or a petition within EPA for reconsideration.

Hernando Mayor Chip Johnson said he found out only last week that the EPA was including his city in the ozone-noncompliance area.

"Which makes no sense, because the ozone monitor is across the street from my house, and it shows us in compliance," said the mayor.

The EPA ozone air-quality standard currently is 75 ppb (parts per billion). DeSoto's level, based on the "three-year average of the fourth-highest readings," said Rikard, is 73.

State and local officials fear if a noncompliance ranking stands, DeSoto's industrial recruitment and transportation projects will be impaired.

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