

## 1 SENATE BILL NO. 364

2 INTRODUCED BY STORY, GEBHARDT, STAHL

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING PROVISIONS GOVERNING VACANCIES ON BOARDS  
5 OF COUNTY COMMISSIONERS; PROVIDING PROCEDURES WHEN MULTIPLE VACANCIES OCCUR THAT  
6 PREVENT ESTABLISHMENT OF A QUORUM; REQUIRING THAT APPOINTMENTS BE MADE BY THE  
7 COUNTY COMPENSATION BOARD OR BY THE DISTRICT JUDGE IF NO COMPENSATION BOARD EXISTS;  
8 REQUIRING APPOINTMENTS TO BE MADE FROM LISTS PROVIDED BY PARTISAN COUNTY CENTRAL  
9 COMMITTEES UNDER CERTAIN CIRCUMSTANCES; AND AMENDING SECTION 7-4-2106, MCA."

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11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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13 **Section 1.** Section 7-4-2106, MCA, is amended to read:  
14 **"7-4-2106. Vacancy on board of county commissioners.** (1) For the purposes of this part, "vacancy"  
15 has the same meaning as prescribed in 2-16-501.

16 (2) Whenever a vacancy occurs in the board of county commissioners from a failure to elect or  
17 otherwise, the remaining county commissioners shall fill the vacancy and the appointee shall hold office until the  
18 next general election unless otherwise provided in subsection (3) or (4). The procedure to be used to fill the  
19 vacancy is as follows:

20 (a) If the former incumbent represented a party eligible for a primary election under 13-10-601, the  
21 county central committee of that party shall submit to the remaining commissioners three names of people who  
22 have lived in the unrepresented district for at least 2 years preceding the day the vacancy occurs. The remaining  
23 commissioners shall appoint one of these three to fill the vacancy. Whenever the remaining commissioners are  
24 unable to elect an appointee from the submitted list, they shall request a second list of three names from the  
25 county central committee. The second list may not contain any of the names submitted on the first list. The  
26 remaining commissioners shall then select an appointee from the individuals named on both lists.

27 (b) If the former incumbent was independent or was originally nominated by a party that does not meet  
28 the requirements of 13-10-601 or if the vacancy occurs from a failure to elect, the remaining commissioners shall  
29 invite applications for the vacancy in a notice published as provided in 13-1-108 and shall accept an application  
30 from any person who has lived in the unrepresented district for at least 2 years preceding the day the vacancy

1 occurs. The remaining commissioners shall appoint one of these applicants to fill the vacancy.

2 (3) Whenever a vacancy occurs 75 days or more before the general election held during the second or  
3 fourth year of the term, an individual must be elected to complete the term at that general election. The election  
4 procedure to be used to elect the successor is as follows:

5 (a) Whenever the vacancy occurs 75 days or more before the primary election during the second or  
6 fourth year of the term, the same procedure must be used as is used to elect county commissioners to full 6-year  
7 terms.

8 (b) Whenever the vacancy occurs after the 75th day preceding the primary election, any political party  
9 desiring to enter a candidate in the general election shall select a candidate as provided in 13-38-204. A political  
10 party shall notify the clerk and recorder of the party nominee. A person desiring to be a candidate as an  
11 independent shall follow the procedures provided in 13-10-501 and 13-10-502. The petition for an independent  
12 candidate must be filed with the clerk and recorder on or before the 75th day prior to the general election. A  
13 candidate for a nonpartisan office shall file as provided in Title 13, chapter 14.

14 (4) Whenever a vacancy occurs after the 75th day preceding the general election held during the fourth  
15 year of the term, the person appointed by the remaining county commissioners under subsection (2) shall serve  
16 until the end of the term.

17 (5) (a) If multiple vacancies occur simultaneously so that a quorum cannot be established, the county  
18 compensation board provided for in 7-4-2503 shall, subject to subsection (5)(c), appoint enough commissioners  
19 to allow for a quorum to be established. The vacancies must be filled in the order in which the commissioners'  
20 terms would have expired.

21 (b) If vacancies occur at different times but, because appointments have not yet been made, a quorum  
22 cannot be established, the county compensation board shall, subject to subsection (5)(c), appoint enough  
23 commissioners to allow for a quorum to be established. The county compensation board shall appoint each  
24 commissioner in the order that the vacancy occurred.

25 (c) (i) A commissioner appointed under this subsection (5) must meet the residency requirement in  
26 7-4-2104(2) and must be from the same district as the commissioner being replaced.

27 (ii) If a commissioner being replaced represented a party eligible for a primary election under 13-10-601,  
28 the county central committee of that party shall, within 30 days of the occurrence of the vacancy, submit to the  
29 county compensation board three names of people who have lived in the unrepresented district for at least 2  
30 years prior to the occurrence of the vacancy. The county compensation board shall appoint each commissioner

1 from the list of names provided by the county central committee.

2 (d) Once a quorum can be established, the county commissioners forming the quorum shall appoint the  
3 remaining commissioners as provided in this section.

4 (e) If a county compensation board does not exist, appointments under this subsection (5) must be made  
5 by a district judge having jurisdiction in the county."

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