

HOUSE BILL NO. 570

INTRODUCED BY T. BERRY

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A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THAT COUNTY COMMISSIONERS BE ELECTED BY THE ELECTORATE OF THE DISTRICT RATHER THAN THE COUNTY; AND AMENDING SECTIONS 7-4-2104 AND 7-4-2106, MCA."

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

**Section 1.** Section 7-4-2104, MCA, is amended to read:

**"7-4-2104. Commissioners to be elected by district.** (1) At each general election, the member or members of the board of county commissioners to be elected must be selected from the residents and electors of the district or districts in which the vacancy occurs;\_

~~(2) but~~ The question of the election of the a member or members of the board must may be submitted only to the entire electorate of the county district.

~~(2)(3)~~ A person may not be elected as a member of a board of county commissioners unless the person has resided in the county and the district for at least 2 years preceding the general election."

**Section 2.** Section 7-4-2106, MCA, is amended to read:

**"7-4-2106. Vacancy on board of county commissioners.** (1) For the purposes of this part, "vacancy" has the same meaning as prescribed in 2-16-501.

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

(a) If the former incumbent represented a party eligible for a primary election under 13-10-601, the county central committee of that party shall submit to the remaining commissioners three names of people who have lived in the unrepresented district for at least 2 years preceding the day the vacancy occurs. The remaining commissioners shall appoint one of these three to fill the vacancy. Whenever the remaining commissioners are unable to elect an appointee from the submitted list, they shall request a second list of three names from the

1 county central committee. The second list may not contain any of the names submitted on the first list. The  
2 remaining commissioners shall then select an appointee from the individuals named on both lists.

3 (b) If the former incumbent was independent or was originally nominated by a party that does not meet  
4 the requirements of 13-10-601 or if the vacancy occurs from a failure to elect, the remaining commissioners shall  
5 invite applications for the vacancy in a notice published as provided in 13-1-108 and shall accept an application  
6 from any person who has lived in the unrepresented district for at least 2 years preceding the day the vacancy  
7 occurs. The remaining commissioners shall appoint one of these applicants to fill the vacancy.

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

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

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

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

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

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

1 (c) (i) A commissioner appointed under this subsection (5) must meet the residency requirement in  
2 ~~7-4-2104(2)~~ 7-4-2104(3) and must be from the same district as the commissioner being replaced.

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

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

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

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