

HOUSE BILL NO. 220

INTRODUCED BY M. MILLER

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A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THAT COUNTY COMMISSIONERS BE ELECTED BY THE ELECTORATE OF THE DISTRICT FROM WHICH THEY ARE SELECTED UNLESS OTHERWISE PROVIDED UNDER CERTAIN CIRCUMSTANCES; AND AMENDING SECTIONS 7-3-111, 7-3-412, 7-4-2104, AND 7-4-2106, MCA."

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

Section 1. Section 7-3-111, MCA, is amended to read:

"7-3-111. Statutory basis for elected county official government. (1) For the purpose of determining the statutory basis of existing units of local government after May 2, 1977, each unit of local government organized under the general statutes authorizing the elected county official form of government ~~shall be~~ is governed by the following sections:

- (a) 7-3-401;
- (b) 7-3-402;
- (c) 7-3-412~~(3)~~;
- (d) 7-3-413(1);
- (e) 7-3-414(1);
- (f) 7-3-415(2);
- (g) 7-3-416(2);
- (h) 7-3-417(2);
- (i) 7-3-418;
- (j) 7-3-432(1);
- (k) 7-3-433(1);
- (l) 7-3-434(1);
- (m) 7-3-435(1);
- (n) 7-3-436(1);
- (o) 7-3-437(1);

1 (p) 7-3-438(1);

2 (q) 7-3-439(1);

3 (r) 7-3-440(1);

4 (s) 7-3-441(1);

5 (t) 7-3-442(1) if the county has elected an auditor;

6 (u) 7-3-442(6) if the county has not elected an auditor.

7 (2) This form of government has terms of 4 years for all elected officials except commissioners who are
8 elected to 6-year terms. The commission consists of three members."

9

10 **Section 2.** Section 7-3-412, MCA, is amended to read:

11 **"7-3-412. Selection of commission members.** ~~The~~ Except as provided by 7-4-2104, the commission
12 shall must be:

13 (1) elected at large;

14 (2) elected by districts in which candidates must reside and ~~which~~ that are apportioned by population;

15 (3) elected at large and nominated by a plan of nomination that may not preclude the possibility of the
16 majority of the electors nominating candidates for the majority of the seats on the commission from persons
17 residing in the district or districts where the majority of the electors reside; or

18 (4) elected by any combination of districts, in which candidates must reside and ~~which~~ that are
19 apportioned by population, and at large."

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21 **Section 3.** Section 7-4-2104, MCA, is amended to read:

22 **"7-4-2104. Commissioners to be elected by district.** (1) At each general election, the member or
23 members of the board of county commissioners to be elected must be selected from the residents and electors
24 of the district or districts in which the vacancy occurs, ~~but the~~

25 (2) The question of the election of the a member or members of the board must may be submitted only
26 to the entire electorate of the county electorate of the district from which the member was selected unless
27 otherwise provided for under:

28 (a) a plan of government provided for in a county adopting an optional or alternative form of government;

29 or

30 (b) a court order.

1 ~~(2)~~(3) A person may not be elected as a member of a board of county commissioners unless the person
2 has resided in the county and the district for at least 2 years preceding the general election."

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

5 **"7-4-2106. Vacancy on board of county commissioners -- resigning member not to participate in**
6 **filling pending vacancy.** (1) For the purposes of this part, "vacancy" has the same meaning as prescribed in
7 2-16-501.

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

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

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

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

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

30 (b) Whenever the vacancy occurs after the 75th day preceding the primary election, any political party

1 desiring to enter a candidate in the general election shall select a candidate as provided in 13-38-204. A political
2 party shall notify the clerk and recorder of the party nominee. A person desiring to be a candidate as an
3 independent shall follow the procedures provided in 13-10-501 and 13-10-502. The petition for an independent
4 candidate must be filed with the clerk and recorder on or before the 75th day prior to the general election. A
5 candidate for a nonpartisan office shall file as provided in Title 13, chapter 14.

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

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

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

17 (c) (i) A commissioner appointed under this subsection (5) must meet the residency requirement in
18 ~~7-4-2104(2)~~ 7-4-2104(3) and must be from the same district as the commissioner being replaced.

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

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

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

28 (6) If a member of the board of county commissioners has submitted the member's resignation as
29 provided in 2-16-502 or if proceedings have begun to remove the member from office under 2-16-501, that
30 member may not be considered to be a remaining member of the commission as provided in this section and may

1 not participate in filling the vacancy to be created when the resignation becomes effective."

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3 NEW SECTION. **Section 5. Transition.** Persons who are members of the board of county
4 commissioners on [the effective date of this act] shall serve the remainder of their term as provided in 7-4-2105.
5 All elections to the board made after [the effective date of this act] are as provided by [this act].

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