

1 HOUSE BILL NO. 626

2 INTRODUCED BY P. FIELDER

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING ELECTION LAWS RELATED TO THE APPOINTMENT
5 PROCESS FOR A LEGISLATIVE VACANCY; REQUIRING THE COUNTY CENTRAL COMMITTEE TO
6 MANAGE THE APPOINTMENT PROCESS; REVISING NOTIFICATION REQUIREMENTS AND
7 PROCESSES; AMENDING SECTIONS 5-2-402 AND 5-2-403, MCA; AND PROVIDING AN IMMEDIATE
8 EFFECTIVE DATE."

9

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

11

12 **Section 1.** Section 5-2-402, MCA, is amended to read:

13 **"5-2-402. Appointment by ~~board of county commissioners~~ -- county party central committee**
14 **role -- timeframes.** (1) Except as provided in subsection ~~(5)-(6)~~ or as otherwise provided by law, whenever a
15 vacancy occurs in the legislature, the vacancy must be filled by appointment by the ~~board of county~~
16 ~~commissioners or, in the event of a multicounty district, the boards of county commissioners of the counties~~
17 ~~comprising the district sitting as one appointing board~~ party central committee of the party of the person
18 vacating office.

19 (2) ~~(a)~~ Whenever a vacancy as described in 2-16-501 is within the boundaries of a single county,
20 ~~the board of county commissioners shall make the appointment as described in 5-2-403, 5-2-404, or 5-2-406~~
21 party central committee serves as the appointing board and shall make the appointment by simple majority vote
22 of that county's precinct representatives.

23 ~~(b)(3)~~ (a) Whenever a vacancy is within a multicounty district, the ~~boards of county commissioners~~
24 ~~shall sit as one appointing board. The selection of an individual to fill the vacancy must be as follows: county~~
25 central committees shall sit as one appointing board.

26 ~~(i)~~ The presiding officer of the board of county commissioners of the county in which the person
27 resided whose vacancy is to be filled shall call a meeting for the purpose of appointing the member of the
28 legislature and shall preside at the meeting.

1 **(b)** The appointing board must be composed of three representatives from each affected county,
 2 with each set of three representatives selected by the respective county central committee. There must be one
 3 chair serving as the presiding officer, who must be selected in accordance with subsection (3)(c)(i).

4 **(c)** **(i)** The state chair of the party of the person vacating office shall appoint the chair of the
 5 appointing board from one of the counties affected by the legislative district vacancy needing to be filled. If the
 6 state chair of the party is not available, then the vice-chairperson of the party shall make the appointment.

7 **(ii)** Each ~~commissioner's vote~~ appointing board member's weighed vote is determined by the
 8 following formula: 100 multiplied by (A divided by B) multiplied by (1 divided by C), ~~where~~ in which:

9 **(A)** A is the total votes cast in the respective county for the person vacating the legislative seat or,
 10 if the vacating person was not elected, the total votes cast for the last person to be elected for the current term;

11 **(B)** B is the total votes cast for that person in the legislative district; and

12 **(C)** C is the number of ~~authorized commissioners~~ appointing board members on the board of the
 13 ~~commissioner whose vote is being determined,~~ not counting the chairperson. The appointing board chairperson
 14 votes only in the event of a tie.

15 **(iii)** The person selected to fill the vacancy is the one who receives the highest number above 50
 16 that results from the calculation in subsection ~~(2)(b)(ii)~~ (3)(c)(ii). If none of the ~~candidates~~ prospective
 17 appointees receives a number higher than 50 from that calculation, the selection board shall cast its votes
 18 again in the same manner ~~for the persons receiving the two highest numbers,~~ removing the individual with the
 19 least amount of votes from each round until an individual receives more than 50% of the appointing board's
 20 weighed vote. If neither vote results in a candidate receiving a number higher than 50 from the calculation
 21 provided in subsection (2)(b)(ii), then 5-2-404 applies.

22 ~~(e)(d)~~ If a vacancy occurs in a holdover senate seat after holdover senators have been assigned to
 23 new districts under each reapportionment, the formula in subsection ~~(2)(b)(ii)~~ (3)(c)(ii) must be applied using the
 24 votes cast for the senatorial candidates at the last election in which votes were cast for a senate candidate.
 25 Only the number of votes cast by electors residing in the new senate district for senate candidates of the party
 26 to which the person vacating the seat belonged may be counted. The secretary of state shall provide an
 27 estimate of the number of votes cast for each party by county or portion of a county. The selection process is
 28 the same as provided in subsection ~~(2)(b)(iii)~~ (3)(c)(iii).

1 ~~(3)~~(4) The appointment process to fill a vacancy in the legislature under this section is as follows:

2 (a) Within 7 days of being notified of a vacancy, the secretary of state shall notify the ~~board of~~
3 ~~county commissioners and the~~ respective state party headquarters ~~that is responsible for notifying the county~~
4 ~~central committee of the county where the vacating legislator is a resident, if the legislative seat is within one~~
5 ~~county, or the boards of county commissioners and the corresponding county central committees if the~~
6 ~~legislative seat is in a multicounty district~~ via e-mail or mailed letter, with a telephone call as backup. When
7 either the e-mail or mailed letter is received and acknowledged by the respective state party headquarters, the
8 notification is considered complete. The secretary of state shall also send a courtesy copy to the county central
9 committee or committees affected. If the legislator is an independent or belongs to a party for which there is no
10 county central committee, the notification of county commissioners via the same means suffices.

11 (b) The state party affected is responsible for notifying the county central committee or committees
12 affected. This notification must also be e-mailed and be mailed by letter, with a telephone call as backup. When
13 either the e-mail or the mailed letter is received and acknowledged by the county or all counties affected, the
14 notification is considered complete. If the legislator is an independent or belongs to a party for which there is no
15 county central committee, the notification of county commissioner using the same means suffices.

16 ~~(b)(c)~~ The appointing board or boards of a county central committee or committees, upon receipt
17 of the letter of notification of a vacancy by e-mail or mailed letter, whichever is acknowledged first, have 45 35
18 business days to propose a list of prospective appointees, pursuant to 5-2-403(1) appoint a replacement and
19 forward the name to the secretary of state's office. The notification to the secretary of state's office must be
20 completed through e-mail or mailed letter, with a telephone call as backup. The county central committee or the
21 county central committees, acting together, shall forward the list of names to the appointing board within the 45-
22 day period. When either the e-mail or the mailed letter is received and acknowledged, the appointment process
23 is complete.

24 ~~(c)~~ The appointing board shall make and confirm an appointment and notify the secretary of state
25 within 15 days:

26 ~~(i)~~ after receiving the list of prospective appointees from the county central committee or committees;

27 ~~(ii)~~ after 45 days have expired after the notification of a vacancy if the county central committee or
28 committees have not provided a list of prospective appointees; or

1 ~~(iii) after notification of a vacancy if the legislator vacating the seat is an independent.~~

2 ~~(4)(5)~~ If the legislature is in session, the notification process in subsection ~~(3)(a)~~ (4)(a) must be
 3 followed within 5 days. The process described in subsection ~~(3)(b)~~ (4)(b) must take place in 5 days. The
 4 process described in subsection ~~(3)(c)~~ (4)(c) must take place in 5 days.

5 ~~(5)(6)~~ Notwithstanding subsection ~~(6)(7)~~, if a vacancy occurs prior to a primary election, 13-10-326
 6 applies. If a vacancy occurs after a primary and prior to a general election, 13-10-327 applies.

7 ~~(6)(7)~~ If the legislature is called into special session within 85 days of a general election, a person
 8 must be appointed to fill a legislative vacancy pursuant to subsections (1) through ~~(4)~~ (5)."

9

10 **Section 2.** Section 5-2-403, MCA, is amended to read:

11 **"5-2-403. Appointee to be of same political party.** ~~(4)~~ Whenever an appointee's predecessor
 12 served as a member of a political party, the appointee named under 5-2-402 must be a member of the same
 13 political party, and must be selected from a list of three individuals provided:

14 ~~(a) by the county central committee in a district within a single county; or~~

15 ~~(b) by the county central committees, acting together, in a multicounty district, as described in 5-2-~~
 16 ~~402.~~

17 ~~(2) Whenever the appointing board is unable to elect an appointee from the submitted list, the~~
 18 ~~appointing board shall request a second list of three names from the county central committee or committees.~~
 19 ~~The second list may not contain any of the names submitted on the first list. The appointing board shall then~~
 20 ~~select an appointee from the individuals named on both lists.~~

21 ~~(3) The provisions of this section do not apply if the predecessor served as an independent."~~

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23 NEW SECTION. **Section 3. Effective date.** [This act] is effective on passage and approval.

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