

# HOUSE BILL REPORT

## HJR 4206

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### As Reported By House Committee On:

Government Operations

**Brief Description:** Amending constitutional procedures for filling legislative vacancies.

**Sponsors:** Representatives Benton, Kessler, Buck, Schoesler, Goldsmith, Sheahan, Dickerson, Mulliken and Boldt.

**Brief History:**

**Committee Activity:**

Government Operations: 2/15/95, 2/22/95, 2/25/95 [DPS].

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### HOUSE COMMITTEE ON GOVERNMENT OPERATIONS

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Reams, Chairman; Goldsmith, Vice Chairman; L. Thomas, Vice Chairman; Hargrove; Honeyford; Hymes; Mulliken; D. Schmidt and Van Luven.

**Minority Report:** Do not pass. Signed by 6 members: Representatives Rust, Ranking Minority Member; Scott, Assistant Ranking Minority Member; Chopp; R. Fisher; Sommers and Wolfe.

**Staff:** Steve Lundin (786-7127).

**Background:** A single state constitution provision specifies how vacancies are filled in partisan county offices and in the House of Representatives and Senate. The same procedure is used to fill these vacancies, except for the office of "joint senator" or "joint representative," i.e., a senator or representative who is elected from a district that includes territory in more than one county.

Whenever a vacancy occurs, the vacancy is filled by the board of county commissioners, who must appoint a person of the same political party as the partisan county officer or legislator whose position is vacant from a list of three persons nominated by the county central committee of that party. The person who is appointed serves until a successor is elected at the next general election and is qualified for the office.

In the case of a vacancy in the office of "joint senator" or "joint representative," the vacancy is filled by joint action of the boards of county commissioners of the counties composing the joint legislative district from a list of three persons nominated by the state central committee of the same political party as the joint legislator. If a majority of the county commissioners fail to agree on the appointment within 60 days after the vacancy occurs, the authority to fill the vacancy reverts to the Governor who has another 30 days to fill the vacancy.

**Summary of Substitute Bill:** Two new procedures are provided for filling a vacancy in the office of a partisan county official and state senator or representative.

A. VACANCY IN PARTISAN COUNTY OFFICE.

The primary procedure applies if the partisan county official whose position is vacant was elected to that position as a member of a major political party and the secondary procedure applies in all other instances or if a person is not appointed to the vacancy under the primary procedure within a specified period.

1. Primary procedure.

Under the primary procedure, the vacancy is filled by a majority vote of the precinct committee officers of the major political party, who are elected at a general election, in the county, or county commissioner district. The authority to make the appointment under the primary procedure is divested, and reverts to the secondary procedure, if the vacancy is not filled within 60 days after the vacancy occurred.

The person who is appointed to fill the vacancy must be a registered voter residing in the county or county commissioner district.

2. Secondary procedure.

A vacancy is filled under the secondary procedure in all other instances by the board of county commissioners.

The vacancy must be filled within 60 days of the vacancy or 30 days after the authority to fill the vacancy reverts from the primary procedure. Where applicable, the person who is appointed shall be of the same political party as the partisan county official whose position became vacant. The person who is appointed to fill the vacancy must be a registered voter residing in the county or county commissioner district.

3. Election of successor.

Under either method, the person who is appointed to fill the vacancy serves until a successor is elected at the next general election and qualifies for the office. The person who is elected serves for the remainder of the unexpired term of office. If the next general election is one where the position normally would have been filled, a single election is held and the person who is elected is elected for both the remainder of the unexpired term of office and the new term of office.

## B. VACANCY IN SENATE OR HOUSE OF REPRESENTATIVES.

The primary procedure applies if the legislator whose position is vacant was elected to that position as a member of a major political party and the secondary procedure applies in all other instances or if a person is not appointed to the vacancy under the primary procedure within a specified period.

### 1. Primary procedure.

Under the primary procedure, the vacancy is filled by a majority vote of the precinct committee officers of the major political party, who are elected at a general election, from the legislative district of the legislator whose position is vacant. The authority to make the appointment under the primary procedure is divested, and reverts to the secondary procedure, if the vacancy is not filled within the following periods:

- o If the vacancy occurs during a regular session of the Legislature, the vacancy must be filled within 30 days after the vacancy occurred.
- o If the vacancy occurs prior to a regular legislative session, the vacancy must be filled within the shorter of either 30 days after a regular session commences or 60 days after the vacancy occurred.

The person who is appointed to fill the vacancy must be a registered voter residing in the legislative district.

### 2. Secondary procedure.

A vacancy is filled under the secondary procedure in all other instances by the county legislative authorities of the county in which the legislative district is located. If the legislative district is located in more than one county, the vacancy is filled by the county legislative authorities of those counties, with the total vote by each county legislative authority being in direct proportion to the population of the legislative district residing in that county, and each member of that county legislative authority receiving an equal vote.

The vacancy must be filled within 60 days of the vacancy or 30 days after the authority to fill the vacancy reverts from the primary procedure. Where applicable,

the person who is appointed shall be of the same political party as the legislator whose position became vacant. The person who is appointed to fill the vacancy must be a registered voter residing in the legislative district.

3. Election of successor.

Under either method, the person who is appointed to fill the vacancy serves until a successor is elected at the next general election and qualifies for the office. The person who is elected serves for the remainder of the unexpired term of office. If the next general election is one where the position normally would have been filled, a single election is held and the person who is elected is elected for both the remainder of the unexpired term of office and the new term of office.

**Substitute Bill Compared to Original Bill:** The new procedures apply to filling vacancies in partisan county elected offices, as well as legislative vacancies. Only elected precinct committee officers may vote to fill a vacancy.

**Appropriation:** None.

**Fiscal Note:** Not Requested.

**Testimony For:** This is long overdue. Precinct committee officers are the closest to the people. Sometimes county commissioners do not appoint the first choice of the party. Tight timelines are necessary.

**Testimony Against:** None.

**Testified:** Representative Benton, prime sponsor; Jim Gastor, Clark County Republican Central Committee; C.A. Leidy, Clark County Republican P.C.O.; Ron Pease, citizen; Art Vinisor, citizen; Sandy White, citizen; and John Fisher, citizen.