

Opinion No. 158.

**Soil Conservation Districts—Election—
Vacancies—Supervisors, Soil Conserva-
tion Districts.**

Held: When a vacancy in the office of supervisor occurs in a soil conservation district such vacancy shall be filled for the unexpired term by election and such election shall be held as any other election for supervisor is held in the district.

December 29, 1943.

Mr. J. E. Norton, Chairman
State Soil Conservation Committee
Bozeman, Montana

Dear Mr. Norton:

You have submitted the following question for my opinion:

“At a recent election of supervisors in the Culbertson-Bainville soil conservation district, one of the parties elected has since failed to qualify due to the fact that he has withdrawn from the district and ceased farming operations.

“The question then arises as to whether or not the next highest man on the ballot can be considered his successor or whether an additional election must be held to fill the vacant position, or does the soil conservation committee have the power to appoint someone to fill this unexpired term.”

Section 7 of Chapter 72, Laws of 1939, provides in part as follows:

“The governing body of the district shall consist of five (5) supervisors, elected as provided hereinabove.

“The supervisors shall annually elect a chairman from their members. The term of office of each supervisor shall be three (3) years, except that the supervisors who are first appointed shall be designated to serve for terms of one (1) and two (2) years, respectively, from the date of their appointment. A supervisor shall hold office until his successor has been elected and has qualified. **Vacancies shall be filled for the unexpired term. The selection of successor to fill an unexpired term, or for a full term shall be by election.** A majority of the supervisors shall constitute a

quorum and the concurrence of a majority in any matter within their duties shall be required for its determination. A supervisor shall receive no compensation for his services, but he shall be entitled to expenses, including traveling expenses, necessarily incurred in the discharge of his duties." (Emphasis mine.)

It is to be noted that the above quoted part of Section 7 provides that "vacancies shall be filled for the unexpired term. The selection of the successor to fill an unexpired term, or for a full term shall be by election." As the statute specifically provides for the filling of a vacancy by election it is mandatory in the case of a vacancy of a supervisor in a soil conservation district that an election be held to fill such vacancy.

A board or commission has only such powers as are conferred upon it by statute or those powers which may be implied.

"A statute that directs a thing to be done in a particular manner implies that it shall not be done otherwise." (Raleigh etc. Co. v. Reid, 59 Mont. 305.)

It is therefore my opinion that when a vacancy in the office of supervisor occurs in a soil conservation district such vacancy shall be filled for the unexpired term by election and such election shall be held in the same manner as any other election for supervisor is held in the district.

Sincerely yours,
R. V. BOTTOMLY
Attorney General