

CHAPTER NO. 526.

SENATE BILL NO. 291

INTRODUCED BY LENSINK

BY REQUEST OF THE SECRETARY OF STATE
AND THE ATTORNEY GENERAL

IN THE SENATE

January 30, 1979	Introduced and referred to Committee on State Administration.
February 9, 1979	Committee recommend bill do pass. Report adopted.
February 10, 1979	Printed and placed on members' desks.
February 12, 1979	Second reading, do pass.
February 13, 1979	Considered correctly engrossed.
February 14, 1979	Third reading, passed. Transmitted to second house.

IN THE HOUSE

February 15, 1979	Introduced and referred to Committee on Judiciary.
March 19, 1979	Committee recommend bill be concurred in as amended. Report adopted.
March 20, 1979	Second reading, concurred in.
March 23, 1979	Third reading, concurred in as amended.

IN THE SENATE

March 24, 1979	Returned from second house. Concurred in as amended.
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March 26, 1979

Second reading, pass consideration until March 28, 1979.

March 28, 1979

Second reading, amendments adopted.

March 29, 1979

Third reading, amendments adopted. Sent to enrolling.

Reported correctly enrolled.

1 Smith BILL NO. 291
 2 INTRODUCED BY Lincoln
 3 BY REQUEST OF THE SECRETARY OF STATE
 4 AND THE ATTORNEY GENERAL

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE LAWS
 6 RELATING TO FILLING VACANCIES IN COUNTY AND LEGISLATIVE
 7 OFFICES; ALLOWING POLITICAL PARTIES TO NOMINATE CANDIDATES
 8 IN SOME INSTANCES; AMENDING SECTIONS 5-2-406, 7-4-2106, AND
 9 7-4-2206, MCA."

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

12 Section 1. Section 5-2-406, MCA, is amended to read:
 13 "5-2-406. Elections to fill vacancies in senate. (1)
 14 Whenever a vacancy occurs ~~40~~ 50 days or more before the
 15 general election held during the second year of the term, an
 16 individual shall be elected to complete the term at that
 17 general election. The election procedure to be used to elect
 18 the successor is as follows:

19 (a) Whenever the vacancy occurs ~~40~~ 50 days or more
 20 prior to the primary election during the second year, the
 21 same procedure as is used for senators who will be elected
 22 to full 4-year terms at that general election shall be
 23 utilized.

24 (b) Whenever the vacancy occurs on or after the 40th

1 ~~50th~~ day prior to the primary election, any political party
 2 desiring to enter a candidate in the general election shall
 3 select a candidate as provided in ~~13-30-101~~ 13-10-327 and
 4 ~~13-30-204~~. A political party ~~may adopt rules for the conduct~~
 5 ~~of the selection process and~~ shall notify the secretary of
 6 state ~~and the appropriate county clerk and recorders~~ of the
 7 party nominee. A person desiring to be a candidate as an
 8 independent shall follow the procedures provided in
 9 13-10-501 and 13-10-502. The petition for an independent
 10 candidate shall be filed with the secretary of state on or
 11 before the ~~30th~~ 50th day prior to the general election.

12 (2) Whenever a vacancy occurs on or after the ~~40th~~
 13 50th day prior to the general election held during the
 14 second year of the term, the person appointed by the board
 15 under 5-2-402 shall serve until the end of the term."

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

17 "7-4-2106. Vacancy on board of county commissioners.
 18 ~~(1) For the purposes of this part, "vacancy" has the same~~
 19 ~~meaning as prescribed in 2-16-501.~~

20 (2) Whenever a vacancy occurs in the board of county
 21 commissioners from a failure to elect or otherwise, the
 22 district judge or judges in whose district the vacancy
 23 occurs must fill the vacancy, and such appointee shall hold
 24 office until the next general election ~~unless otherwise~~
 25 ~~provided in subsection (3) or (4).~~

1 (3) Whenever a vacancy occurs 50 days or more before
 2 the general election held during the second or fourth year
 3 of the term, an individual shall be elected to complete the
 4 term at that general election. The election procedure to be
 5 used to elect the successor is as follows:

6 (a) Whenever the vacancy occurs 50 days or more before
 7 the primary election during the second or fourth year of the
 8 term, the same procedure shall be utilized as is used to
 9 elect county commissioners to full 6-year terms.

10 (b) Whenever the vacancy occurs after the 50th day
 11 preceding the primary election, any political party desiring
 12 to enter a candidate in the general election shall select a
 13 candidate as provided in 13-39-204. A political party shall
 14 notify the clerk and recorder of the party nominee. A
 15 person desiring to be a candidate as an independent shall
 16 follow the procedures provided in 13-10-501 and 13-10-502.
 17 The petition for an independent candidate shall be filed
 18 with the clerk and recorder on or before the 40th day prior
 19 to the general election. A candidate for a nonpartisan
 20 office shall file as provided in [Title 13, chapter 14].

21 (4) Whenever a vacancy occurs after the 50th day
 22 preceding the general election held during the fourth year
 23 of the term, the person appointed by the district judge
 24 under 7-4-2106(2) shall serve until the end of the term."

25 Section 3. Section 7-4-2206, MCA, is amended to read:

1 "7-4-2206. Vacancies. (1) For the purposes of this
 2 part, "vacancy" has the same meaning as prescribed in
 3 2-16-501.

4 ~~(2)~~ Vacancies in all county-township-and-precinct
 5 offices, except that of county commissioner and justice of
 6 the peace, shall be filled by appointment by the board of
 7 county commissioners. ~~(2)~~The appointee shall hold his
 8 office, if elective, until the next general election unless
 9 otherwise provided in subsections (3) or (4), and if not
 10 elective, the appointee serves at the pleasure of the
 11 commissioners.

12 (3) Whenever a vacancy occurs 50 days or more before
 13 the general election held during the second year of the
 14 term, an individual shall be elected to complete the term at
 15 that general election. The election procedure to be used to
 16 elect the successor is as follows:

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 18 the primary election during the second year of the term, the
 19 same procedure shall be utilized as is used to elect a
 20 person to that office for a full 4-year term.

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 22 preceding the primary election, any political party desiring
 23 to enter a candidate in the general election shall select a
 24 candidate as provided in 13-39-204. A political party shall
 25 notify the clerk and recorder of the party nominee. A

1 person desiring to be a candidate as an independent shall
2 follow the procedures provided in 13-10-501 and 13-10-502.
3 The petition for an independent candidate shall be filed
4 with the clerk and recorder on or before the 40th day prior
5 to the general election. A candidate for a nonpartisan
6 office shall file as provided in [Title 13, chapter 14].
7 (4) Whenever a vacancy occurs after the 40th day
8 preceding the general election held during the second year
9 of the term, the person appointed by the commissioners under
10 7-4-2206(2) shall serve until the end of the term."

-End-

Approved by Committee
on State Administration

1 Amick BILL NO. 291
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4 AND THE ATTORNEY GENERAL

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE LAWS
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7 party nominee. A person desiring to be a candidate as an
8 independent shall follow the procedures provided in
9 13-10-501 and 13-10-502. The petition for an independent
10 candidate shall be filed with the secretary of state on or
11 before the ~~30th~~ 40th day prior to the general election.

12 (2) Whenever a vacancy occurs on or after the 40th
13 50th day prior to the general election held during the
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15 under 5-2-402 shall serve until the end of the term."

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

17 "7-4-2106. Vacancy on board of county commissioners.
18 (1) For the purposes of this part, "vacancy" has the same
19 meaning as prescribed in 2-16-501.

20 (2) Whenever a vacancy occurs in the board of county
21 commissioners from a failure to elect or otherwise, the
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24 office until the next general election unless otherwise
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 4 term at that general election. The election procedure to be
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 11 preceding the primary election, any political party desiring
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 20 office shall file as provided in [Title 13, chapter 14].

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25 Section 3. Section 7-4-2206, MCA, is amended to read:

1 "7-4-2206. Vacancies. (1) For the purposes of this
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 9 13-10-501 and 13-10-502. The petition for an independent
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 13 20th day prior to the general election held during the
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18 with the clerk and recorder on or before the 50th day prior
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20 office shall file as provided in [Title 13, Chapter 14].

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6 the peace, shall be filled by appointment by the board of
7 county commissioners.

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9 appointee shall hold his office, if elective, until the next
10 general election unless otherwise provided in subsections
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12 pleasure of the commissioners.

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1 notify the clerk and recorder of the party nominee. A
2 person desiring to be a candidate as an independent shall
3 follow the procedures provided in 13-10-501 and 13-10-502.
4 The petition for an independent candidate shall be filed
5 with the clerk and recorder on or before the 40th day prior
6 to the general election. A candidate for a nonpartisan
7 office shall file as provided in [Title 13, chapter 14].

8 (4) Whenever a vacancy occurs after the 40th 50TH day
9 preceding the general election held during the second year
10 of the term, the person appointed by the commissioners under
11 7-4-2206(2) shall serve until the end of the term.

12 (5) VACANCIES OCCURRING IN THE OFFICE OF JUSTICE OF
13 THE PEACE SHALL BE FILLED AS PROVIDED IN TITLE 3, CHAPTER
14 10, PART 2."

-End-

March 6, 1979

HOUSE OF REPRESENTATIVES

JUDICIARY Committee amendments to SENATE BILL NO. 291,
third reading copy, as follows:

1. Page 4, lines 5 and 6.

Strike: "and justice of the peace"

2. Page 4, line 7.

Following "~~2~~"

Strike: "The"

Insert: "Except for the justice of the peace, the"

3. Page 5, line 7.

Following: "the"

Strike: "40th"

Insert: "50th"

4. Page 5, line 11.

Following: line 10

Insert: "(5) Vacancies occurring in the office of justice of
the peace shall be filled as provided in Title 3, chapter 10,
part 2"