

FIRST REGULAR SESSION

HOUSE BILL NO. 1179

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE ALFERMAN.

2553H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 49.060, 51.090, 53.010, 54.033, 55.050, 58.040, 59.022, and 105.030, RSMo, and to enact in lieu thereof nine new sections relating to public office vacancies, with an emergency clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 49.060, 51.090, 53.010, 54.033, 55.050, 58.040, 59.022, and 105.030, RSMo, are repealed and nine new sections enacted in lieu thereof, to be known as sections 49.060, 51.090, 52.145, 53.010, 54.033, 55.050, 58.040, 59.022, and 105.030, to read as follows:

49.060. 1. When a vacancy shall occur in the office of a county commissioner, the vacancy shall at once be certified by the clerk of the commission to the governor[, who shall fill such vacancy with a person who resides in the district at the time the vacancy occurs, as provided by law].

2. If at the time the vacancy occurs there is less than one year remaining in the unexpired term, the vacancy shall be filled as provided in section 105.030.

3. If at the time the vacancy occurs there is one year or more remaining in the unexpired term, it shall be the duty of the governor to fill such vacancy by appointing, by and with the advice and consent of the senate subject to the provisions of article IV, section 51 of the Constitution of Missouri, some eligible person to said office who shall discharge the duties thereof until the next general election, at which time a commissioner shall be chosen for the remainder of the term, who shall hold such office until a successor is duly elected and qualified, unless sooner removed.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

14 **4. This section shall not apply to any county that has adopted a charter for its own**
15 **government under article VI, section 18 of the Constitution of Missouri.**

 51.090. 1. When any vacancy shall occur in the office of clerk of the county commission
2 by death, resignation, removal, refusal to act, or otherwise, **and at the time of such vacancy**
3 **there is one year or more remaining in the unexpired term,** it shall be the duty of the
4 governor to fill such vacancy by appointing, **by and with the advice and consent of the senate**
5 **subject to the provisions of article IV, section 51 of the Constitution of Missouri,** some
6 eligible person to said office, who shall discharge the duties thereof until the next general
7 election, at which time a clerk shall be chosen for the remainder of the term, who shall hold [his]
8 **such** office until [his] a successor is duly elected or appointed and qualified, unless sooner
9 removed.

10 **2. This section shall not apply to any county that has adopted a charter for its own**
11 **government under article VI, section 18 of the Constitution of Missouri.**

 52.145. 1. If any vacancy shall occur in the office of county collector of revenue by
2 death, resignation, removal, refusal to act, or otherwise, **and at the time of such vacancy**
3 **there is one year or more remaining in the unexpired term,** it shall be the duty of the
4 governor to fill such vacancy by appointing, **by and with the advice and consent of the**
5 **senate subject to the provisions of article IV, section 51 of the Constitution of Missouri,**
6 **some eligible person to said office, who shall discharge the duties thereof until the next**
7 **general election, at which time a collector shall be chosen for the remainder of the term,**
8 **who shall hold such office until a successor is duly elected and qualified, unless sooner**
9 **removed.**

10 **2. This section shall not apply to any county that has adopted a charter for its own**
11 **government under article VI, section 18 of the Constitution of Missouri.**

 53.010. 1. At the general election in the year 1948 and every four years thereafter the
2 qualified voters in each county in this state shall elect a county assessor. Such county assessors
3 shall enter upon the discharge of their duties on the first day of September next after their
4 election, and shall hold office for a term of four years, and until their successors are elected and
5 qualified, unless sooner removed from office; provided, that this section shall not apply to the
6 city of St. Louis. The assessor shall be a resident of the county from which such person was
7 elected.

8 **2. If any vacancy shall occur in the office of county assessor by death, resignation,**
9 **removal, refusal to act, or otherwise, and at the time of such vacancy there is one year or**
10 **more remaining in the unexpired term,** it shall be the duty of the governor to fill such
11 **vacancy by appointing, by and with the advice and consent of the senate subject to the**
12 **provisions of article IV, section 51 of the Constitution of Missouri, some eligible person to**

13 said office, who shall discharge the duties thereof until the next general election, at which
14 time an assessor shall be chosen for the remainder of the term, who shall hold such office
15 until a successor is duly elected and qualified, unless sooner removed. This subsection shall
16 not apply to any county that has adopted a charter for its own government under article
17 VI, section 18 of the Constitution of Missouri.

18 [2.] 3. The office of county assessor is created in each county having township
19 organization and a county assessor shall be elected for each township organization county at the
20 next general election, or at a special election called for that purpose by the governing body of
21 such county. If a special election is called, the state and each political subdivision or special
22 district submitting a candidate or question at such election shall pay its proportional share of the
23 costs of the election, as provided by section 115.065. Such assessor shall assume office
24 immediately upon his election and qualification, and shall serve until his successor is elected and
25 qualified under the provisions of subsection 1 of this section. Laws generally applicable to
26 county assessors, their offices, clerks, and deputies shall apply to and govern county assessors
27 in township organization counties, and laws applicable to county assessors, their offices, clerks,
28 and deputies in third class counties and laws applicable to county assessors, their offices, clerks,
29 and deputies in fourth class counties shall apply to and govern county assessors, their offices,
30 clerks, and deputies in township organization counties of the respective classes, except that when
31 such general laws and such laws applicable to third and fourth class counties conflict with the
32 laws specially applicable to county assessors, their offices, clerks, and deputies in township
33 organization counties, the laws specially applicable to county assessors, their offices, clerks, and
34 deputies in township organization counties shall govern.

54.033. In the event of a vacancy caused by death, resignation, or otherwise, in the office
2 of county treasurer in any county except a county having a township form of government with
3 an office of collector-treasurer and any county with a charter form of government, the county
4 commission shall appoint a deputy treasurer or a qualified person to serve as an interim treasurer
5 until said treasurer returns or the unexpired term is filled under section 105.030. **If there is one**
6 **year or more remaining in the unexpired term when such vacancy is filled under section**
7 **105.030, it shall be the duty of the governor to fill such vacancy by appointing, by and with**
8 **the advice and consent of the senate subject to the provisions of article IV, section 51 of the**
9 **Constitution of Missouri, some eligible person to said office who shall discharge the duties**
10 **thereof until the next general election, at which time a treasurer shall be chosen for the**
11 **remainder of the term, who shall hold such office until a successor is duly elected and**
12 **qualified, unless sooner removed.** Such individual must be eligible to serve as a county
13 treasurer under section 54.040, and must comply with section 54.090. **This section shall not**

14 **apply to any county that has adopted a charter for its own government under article VI,**
15 **section 18 of the Constitution of Missouri.**

55.050. 1. At the general election in the year 1946, and every four years thereafter, a
2 county auditor shall be elected in each county of the first class not having a charter form of
3 government and in each county of the second class. He **or she** shall be commissioned by the
4 governor and shall enter upon the discharge of his **or her** duties on the first Monday in January
5 next ensuing his **or her** election. He **or she** shall hold his **or her** office for the term of four years
6 and until his **or her** successor is duly elected and qualified, unless he **or she** is sooner removed
7 from office.

8 2. If a vacancy occurs in the office by death, resignation, removal, refusal to act, or
9 otherwise, **and at the time of such vacancy there is one year or more remaining in the**
10 **unexpired term,** the governor shall fill the vacancy by appointing some eligible person to the
11 office, **by and with the advice and consent of the senate subject to the provisions of article**
12 **IV, section 51 of the Constitution of Missouri,** who shall discharge the duties thereof until the
13 next general election, at which time an auditor shall be chosen for the remainder of the term, who
14 shall hold [his] **such** office until [his] a successor is duly elected and qualified, unless sooner
15 removed. **This subsection shall not apply to any county that has adopted a charter for its**
16 **own government under article VI, section 18 of the Constitution of Missouri.**

58.040. When any vacancy shall occur in the office of coroner by death, resignation,
2 removal, refusal to act, or in any other manner, **and at the time of such vacancy there is one**
3 **year or more remaining in the unexpired term,** it shall be the duty of the governor to fill such
4 vacancy by appointing some eligible person to such office **by and with the advice and consent**
5 **of the senate subject to the provisions of article IV, section 51 of the Constitution of**
6 **Missouri.** The person so appointed shall take the oath, give bond and otherwise qualify for the
7 office as required of coroners regularly elected, and shall discharge the duties of such office for
8 the remainder of the term for which he is appointed. **This section shall not apply to any county**
9 **that has adopted a charter for its own government under article VI, section 18 of the**
10 **Constitution of Missouri.**

59.022. In the event of a vacancy caused by death or resignation in the office of county
2 recorder where the offices of the clerk of the court and recorder of deeds are separate, except in
3 any city not within a county or any county with a charter form of government, the county
4 commission shall appoint a deputy recorder or a qualified person to serve as an interim recorder
5 of deeds until the unexpired term is filled under section 105.030. **If there is one year or more**
6 **remaining in the unexpired term when such vacancy is filled under section 105.030, it shall**
7 **be the duty of the governor to fill such vacancy by appointing, by and with the advice and**
8 **consent of the senate subject to the provisions of article IV, section 51 of the Constitution**

9 of Missouri, some eligible person to said office who shall discharge the duties thereof until
10 the next general election, at which time a recorder shall be chosen for the remainder of the
11 term, who shall hold such office until a successor is duly elected and qualified, unless
12 sooner removed. This section shall not apply to any county that has adopted a charter for
13 its own government under article VI, section 18 of the Constitution of Missouri.

105.030. Except as specifically provided otherwise, whenever any vacancy, caused in
2 any manner or by any means whatsoever, occurs or exists in any state or county office originally
3 filled by election of the people, other than in the offices of lieutenant governor, state senator or
4 representative, sheriff, or recorder of deeds in the city of St. Louis, the vacancy shall be filled by
5 appointment by the governor except that when a vacancy occurs in the office of county assessor
6 after a general election at which a person other than the incumbent has been elected, the person
7 so elected shall be appointed to fill the remainder of the unexpired term; and the person
8 appointed after duly qualifying and entering upon the discharge of his duties under the
9 appointment shall continue in office until the first Monday in January next following the first
10 ensuing general election, at which general election a person shall be elected to fill the unexpired
11 portion of the term, or for the ensuing regular term, as the case may be, and the person so elected
12 shall enter upon the discharge of the duties of the office the first Monday in January next
13 following his election, except that when the term to be filled begins on any day other than the
14 first Monday in January, the appointee of the governor shall be entitled to hold the office until
15 such other date. This section shall not apply to vacancies in county offices in any county which
16 has adopted a charter for its own government under section 18, article VI of the Constitution of
17 Missouri. Any vacancy in the office of recorder of deeds in the city of St. Louis shall be filled
18 by appointment by the mayor of that city.

Section B. Because immediate action is necessary to ensure that all vacant public offices
2 are filled in a timely manner, the enactment of section A of this act is deemed necessary for the
3 immediate preservation of the public health, welfare, peace, and safety, and is hereby declared
4 to be an emergency act within the meaning of the constitution, and the enactment of section A
5 of this act shall be in full force and effect upon its passage and approval.

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