

WORKING DRAFT

HOUSE BILL NO. _____

Vacancies in elective office.

Sponsored by: Joint Corporations, Elections and Political
Subdivisions Interim Committee

A BILL

for

1 AN ACT relating to elections; providing for determination
2 and filling of vacancies in elective office; making
3 conforming amendments; and providing for an effective date.

4

5 *Be It Enacted by the Legislature of the State of Wyoming:*

6

7 **Section 1.** W.S. 21-3-109(a)(iii), (iv) and by
8 creating a new paragraph (v) is amended to read:

9

10 **21-3-109. When vacancy on board deemed to have**
11 **occurred.**

12

13 (a) A vacancy shall have occurred in the membership
14 of any board of trustees of any school district if any
15 member:

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(iii) Becomes a nonresident of the school district;~~or~~

(iv) Becomes a nonresident of the trustee residence area from which elected in those districts subdivided into trustee residence areas;~~or~~ or

(v) Meets any of the criteria specified in W.S. 22-18-101(a).

Section 2. W.S. 22-18-111 is repealed and recreated as W.S. 22-18-111 to read:

22-18-111. Vacancies in other offices; temporary appointments.

(a) Any vacancy in any elective office in the state, except representative in congress and members of the judiciary, shall be filled by the governing body, or by appointment of a temporary successor to serve until a successor for the remainder of the unexpired term or a new term is elected at the next general election and takes

1 office on the first Monday of the following January, as
2 hereafter provided.

3 ***** STAFF COMMENTS *****

4
5 **This new subsection (a) has been altered in a**
6 **number of respects from the current statute.**
7 **Under the new language, elected members of the**
8 **judiciary are being specifically excepted (though**
9 **their vacancies are dealt with in section 4,**
10 **article 5 and W.S. 22-18-110). The explicit**
11 **exception for board of trustees of a school or**
12 **community college districts found in subsection**
13 **(a) of the current statute has been removed.**
14

15 (b) A vacancy in the office of United States senator
16 or state office shall be determined by the governor:

17

18 (i) If the incumbent who vacated office belonged
19 to a political party, the governor shall certify the
20 vacancy to the state chairman of the state central
21 committee of the political party which the incumbent
22 represented at the time of his election under W.S.
23 22-6-120(a)(vii), or at the time of his appointment if not
24 elected to office. The chairman shall call a meeting of the
25 state central committee to be held not later than fifteen
26 (15) days after the chairman receives notice of the
27 vacancy. At the meeting, the state central committee shall
28 select and transmit to the governor the name of a person
29 qualified to fill the vacancy. Within five (5) days after

1 receipt of the name, the governor shall fill the vacancy by
2 temporary appointment of the person so selected by the
3 state central committee;

4 ***** STAFF COMMENTS *****

5
6 This paragraph, which roughly corresponds with
7 paragraph (a)(i) in the current statute, changes
8 the time of the meeting of the state central
9 committee from ten days to fifteen days. Under
10 the current statute, the state central committee
11 chooses three names from which the governor
12 appoints one person. Under the new draft
13 language, the state central committee shall
14 select one name and that person will
15 automatically be appointed by the governor. In
16 addition, the new draft requires the governor to
17 notify the state central committee of the
18 political party that the incumbent was affiliated
19 with at the time of his election, where the
20 current statute's language is "to which the
21 incumbent last belonged". This change in
22 language, which is repeated throughout the text,
23 would mean that any change in affiliation after
24 election would not be taken into account if a
25 vacancy occurs.
26

27 (ii) If the incumbent who vacated office did not
28 represent a political party at the time of his election or
29 appointment to the office, the governor shall certify the
30 vacancy to the chairmen of all state central committees of
31 parties registered with the secretary of state, each of
32 which shall follow the process under paragraph (i) of this
33 subsection and submit the name of one (1) person qualified
34 to fill the vacancy to the governor. The governor shall
35 cause to be published notice of the vacancy in a newspaper

1 of general circulation in the state. Qualified persons who
2 do not belong to a party may, within fifteen (15) days
3 after public notice of the vacancy, submit a petition to
4 the governor signed by at least one hundred (100) qualified
5 electors, seeking consideration for appointment to fill the
6 vacancy. Within five (5) days after the last day for
7 receiving the names of qualified persons, the governor
8 shall fill the vacancy by temporary appointment to the
9 office from the names submitted or from those petitioning
10 for appointment.

11 ***** STAFF COMMENTS *****
12

13 **This paragraph is similar to the latter half of**
14 **paragraph (a)(i) in the current statute. The**
15 **current statute kicks in if the incumbent has no**
16 **political party when the vacancy occurs, while,**
17 **in the current draft, paragraph (b)(ii) kicks in**
18 **if the incumbent had no political affiliation**
19 **when he was elected or appointed. The deadline**
20 **to submit names to the governor, like in**
21 **paragraph (b)(i) above, is fifteen days from**
22 **receipt of notice of the vacancy.**
23

24 (c) Vacancies in the office of a member of the state
25 legislature shall be determined and filled as hereafter
26 provided:

27
28 (i) In the case of vacancies caused by
29 resignation, the governor and in the case of vacancies
30 occurring other than by resignation, the board of county

1 commissioners of the county or counties in which the
2 vacancy occurs, shall immediately notify the chairman of
3 the political party which the incumbent represented at the
4 time of his election under W.S. 22-6-120(a)(vii), or at the
5 time of his appointment if not elected to office;

6 ***** STAFF COMMENTS *****

7 **There is a slight language change from the**
8 **corresponding subdivision in the current statute,**
9 **(a)(iii)(A). Under current law, the entity**
10 **notified is the state central committee, where**
11 **under the current language of the draft it is the**
12 **"chairmen of the political party that the**
13 **incumbent represented".**
14
15

16 (ii) For all vacancies in which the incumbent
17 represented a political party at the time of his election
18 or appointment to the office, the state central committee
19 of that political party shall notify the party's precinct
20 committeemen and committeewomen for each precinct within
21 the legislative district in which the vacancy exists, who
22 have been in office at least thirty (30) days prior to the
23 vacancy. The central committee, or its designee, shall also
24 arrange a meeting, not later than fifteen (15) days after
25 notification of the vacancy, of those precinct persons
26 during which they shall select a qualified person to fill
27 the vacancy. The state central committee shall establish

1 procedures for conducting the vote required to choose a
2 person to fill the vacancy;

3 ***** STAFF COMMENTS *****

4
5 **The bill draft extends the deadline for the**
6 **meeting of the precinct people from ten days to**
7 **fifteen days.**
8

9 (iii) The state central committee shall submit
10 the name of the person selected to fill the vacancy to the
11 board of county commissioners for each county in which the
12 legislative district is located and within five (5) days
13 thereafter, the board or boards of county commissioners
14 shall appoint the person submitted by the state central
15 committee to fill the vacancy;

16 ***** STAFF COMMENTS *****

17
18 **Under the provisions of this draft, the precinct**
19 **meetings, as provided by paragraph (c)(ii),**
20 **select the sole individual who will be appointed**
21 **by the board of county commissioners. Under the**
22 **current statute, three names are selected at the**
23 **meeting and forwarded to the board of county**
24 **commissioners, who select one person from that**
25 **list for appointment.**
26

27 (iv) If the incumbent vacating the office did
28 not represent a political party at the time of his election
29 or appointment to the office, the board or boards of county
30 commissioners in which the legislative district is located
31 shall publish notice of the vacancy in a newspaper of

1 general circulation in the county or counties. The notice
2 shall also give notice that within fifteen (15) days after
3 publication any qualified person may apply directly to the
4 county commissioners for appointment to fill the vacancy.
5 Within twenty (20) days following publication of the notice
6 of vacancy, the board or boards of county commissioners
7 shall fill the vacancy by appointing one (1) person
8 qualified from those submitting applications. If the
9 legislative district is in more than one (1) county, the
10 vacancy shall be filled by the combined vote of the boards
11 of county commissioners for those counties and the vote of
12 each county commissioner shall be weighted so that the
13 total vote of the commissioners is in proportion to the
14 population of the legislative district within that county
15 based on the most recent decennial census.

16 ***** STAFF COMMENTS *****

17
18 **While current law (specifically (a)(iii)(C))**
19 **applies only to incumbents who have no political**
20 **party when the vacancy occurs, this provision**
21 **applies to incumbents with no political**
22 **affiliation when elected or appointed. The**
23 **notice provision has been extended from ten days**
24 **to fifteen days, and the county commissioners can**
25 **fill the vacancy within twenty days of publishing**
26 **the notice, rather than the fifteen provided by**
27 **current law. The provision in W.S. 22-18-**
28 **111(a)(iii)(D) that applied that subdivision to**
29 **vacancies not created by resignation has been**
30 **removed.**
31

1 (d) Vacancies in county elective offices shall be
2 filled as hereafter provided:

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4 (i) If the incumbent who vacated office
5 represented a political party, the board of county
6 commissioners shall immediately notify in writing the
7 chairman of the county central committee of the political
8 party which the incumbent represented at the time of his
9 election under W.S. 22-6-120(a)(vii), or at the time of his
10 appointment if not elected to office. The chairman shall
11 call a meeting of the county central committee to be held
12 no later than fifteen (15) days after receipt of notice of
13 the vacancy. At the meeting the county central committee
14 shall select and transmit to the board of county
15 commissioners the name of a person qualified to fill the
16 vacancy. Within five (5) days after receipt of the name,
17 the board of county commissioners shall appoint the person
18 to fill the vacancy;

19

***** STAFF COMMENTS *****

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21 **This provision would replace paragraph (a)(ii) in**
22 **the current statute. In that provision, the**
23 **county central commission would have ten days to**
24 **meet after receipt of notice. Three names are**
25 **selected during the meeting and sent to the board**
26 **of county commissioners, who appoint one of the**
27 **three. This draft gives fifteen days notice, and**
28 **one name is sent to the board of county**
29 **commissioners, who appoint that person.**

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2 (ii) If the incumbent who vacated office did not
3 represent a political party at the time of his election or
4 appointment to the office, the board of county
5 commissioners shall fill the vacancy using the same process
6 provided by paragraph (c)(iv) of this section except as
7 hereafter provided. In the case of a vacancy in the office
8 of county commissioner in which the incumbent did not
9 represent a political party at the time of his election or
10 appointment, the remaining members of the board of county
11 commissioners may appoint any qualified person to fill the
12 vacancy.

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***** STAFF COMMENTS *****

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15 **As in other areas of the draft, the time between**
16 **receipt of notice of the vacancy and filling the**
17 **vacancy has been extended five days. The**
18 **provision allowing county commissioners to**
19 **appoint a replacement comes from W.S. 18-3-**
20 **524(a)(ii), which would be repealed under the**
21 **draft.**

22

23 (e) Vacancies in a municipal office shall be filled
24 as provided by W.S. 15-1-107 and 15-3-203.

25

26 (f) Vacancies on a school or community college
27 district board of trustees shall be determined and filled

1 as provided by W.S. 21-3-108, 21-3-109, 21-18-303 and
2 22-18-101.

3 ***** STAFF COMMENTS *****

4
5 **This provision replaces W.S. 22-18-112(b). The**
6 **new draft provides specific statutory citations,**
7 **and removes current statutory language that**
8 **provides for vacancies when the trustees fail to**
9 **appoint a qualified person. The bill draft also**
10 **removes paragraph (a)(vi), which provided for**
11 **vacancies when the board of county commissioners**
12 **failed to appoint a qualified person.**
13

14 (g) Vacancies on a hospital or special district board
15 of trustees shall be determined and filled as provided in
16 W.S. 22-29-201 and 22-29-202.

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18 **Section 3.** W.S. 18-3-524 is repealed.

19

20 **Section 4.** This act is effective immediately upon
21 completion of all acts necessary for a bill to become law
22 as provided by Article 4, Section 8 of the Wyoming
23 Constitution.

24

25 (END)

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