

FIRST REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 1179

98TH GENERAL ASSEMBLY

2553H.02P

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 49.060, 51.090, 53.010, 54.033, 55.050, 58.040, 59.022, 105.030, 473.730, and 483.020, RSMo, and to enact in lieu thereof eleven 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Section A. Sections 49.060, 51.090, 53.010, 54.033, 55.050, 58.040, 59.022, 105.030, 2 473.730, and 483.020, RSMo, are repealed and eleven new sections enacted in lieu thereof, to 3 be known as sections 49.060, 51.090, 52.145, 53.010, 54.033, 55.050, 58.040, 59.022, 105.030, 4 473.730, and 483.020, to read as follows:

49.060. **1.** When a vacancy shall occur in the office of a county commissioner, the 2 vacancy shall at once be certified by the clerk of the commission to the governor[, who shall fill 3 such vacancy with a person who resides in the district at the time the vacancy occurs, as provided 4 by law].

2. It shall be the duty of the governor to fill such vacancy no later than sixty days 6 after certification by appointing, by and with the advice and consent of the senate subject 7 to the provisions of article IV, section 51 of the Constitution of Missouri, some eligible 8 person to said office who shall discharge the duties thereof until the next general election, 9 at which time a commissioner shall be chosen for the remainder of the term, who shall hold 10 such office until a successor is duly elected and qualified, unless sooner removed.

3. 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.

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, it shall be the duty of the governor

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.

3 to fill such vacancy by appointing, **no later than sixty days after the vacancy occurs and by**
4 **and with the advice and consent of the senate subject to the provisions of article IV, section**
5 **51 of the Constitution of Missouri**, some eligible person to said office, who shall discharge the
6 duties thereof until the next general election, at which time a clerk shall be chosen for the
7 remainder of the term, who shall hold [his] **such** office until [his] **a** successor is duly elected or
8 appointed and qualified, unless sooner removed.

9 **2. This section shall not apply to any county that has adopted a charter for its own**
10 **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, it shall be the duty of the governor**
3 **to fill such vacancy by appointing, no later than sixty days after the vacancy occurs and by**
4 **and with the advice and consent of the senate subject to the provisions of article IV, section**
5 **51 of the Constitution of Missouri**, some eligible person to said office, who shall discharge
6 **the duties thereof until the next general election, at which time a collector shall be chosen**
7 **for the remainder of the term, who shall hold such office until a successor is duly elected**
8 **and qualified, unless sooner removed.**

9 **2. This section shall not apply to any county that has adopted a charter for its own**
10 **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, it shall be the duty of the governor to fill such vacancy**
10 **by appointing, no later than sixty days after the vacancy occurs and by and with the advice**
11 **and consent of the senate subject to the provisions of article IV, section 51 of the**
12 **Constitution of Missouri**, some eligible person to said office, who shall discharge the duties
13 **thereof until the next general election, at which time an assessor shall be chosen for the**
14 **remainder of the term, who shall hold such office until a successor is duly elected and**
15 **qualified, unless sooner removed. This subsection shall not apply to any county that has**
16 **adopted a charter for its own government under article VI, section 18 of the Constitution**
17 **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. **The governor**
6 **shall fill a vacancy under this section no later than sixty days after such vacancy occurs by**
7 **appointing, by and with the advice and consent of the senate subject to the provisions of**
8 **article IV, section 51 of the Constitution of Missouri, some eligible person to said office who**
9 **shall discharge the duties thereof until the next general election, at which time a treasurer**
10 **shall be chosen for the remainder of the term, who shall hold such office until a successor**
11 **is duly elected and qualified, unless sooner removed.** Such individual must be eligible to
12 serve as a county treasurer under section 54.040, and must comply with section 54.090. **This**
13 **section shall not apply to any county that has adopted a charter for its own government**
14 **under article VI, 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, the governor shall fill the vacancy, **no later than sixty days after it occurs**, by
10 appointing some eligible person to the office, **by and with the advice and consent of the senate**
11 **subject to the provisions of article IV, section 51 of the Constitution of Missouri**, who shall
12 discharge the duties thereof until the next general election, at which time an auditor shall be
13 chosen for the remainder of the term, who shall hold [his] **such** office until [his] a successor is
14 duly elected and qualified, unless sooner removed. **This subsection shall not apply to any**
15 **county that has adopted a charter for its own government under article VI, section 18 of**
16 **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, it shall be the duty of the governor to fill such
3 vacancy, **no later than sixty days after its occurrence**, by appointing some eligible person to
4 such office **by and with the advice and consent of the senate subject to the provisions of**
5 **article IV, section 51 of the Constitution of Missouri.** The person so appointed shall take the
6 oath, give bond and otherwise qualify for the office as required of coroners regularly elected, and
7 shall discharge the duties of such office for the remainder of the term for which he is appointed.
8 **This section shall not apply to any county that has adopted a charter for its own**
9 **government under article VI, section 18 of the 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. **It shall be the duty of the**
6 **governor to fill such vacancy, no later than sixty days after its occurrence, by appointing,**
7 **by and with the advice and consent of the senate subject to the provisions of article IV,**
8 **section 51 of the Constitution of Missouri, some eligible person to said office who shall**
9 **discharge the duties thereof until the next general election, at which time a recorder shall**
10 **be chosen for the remainder of the term, who shall hold such office until a successor is duly**
11 **elected and qualified, unless sooner removed. This section shall not apply to any county**
12 **that has adopted a charter for its own government under article VI, section 18 of the**
13 **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.

473.730. 1. Every county in this state, except the City of St. Louis, shall elect a public
2 administrator at the general election in the year 1880, and every four years thereafter, who shall
3 be ex officio public guardian and conservator in and for the public administrator's county. A
4 candidate for public administrator shall be at least twenty-one years of age and a resident of the
5 state of Missouri and the county in which he or she is a candidate for at least one year prior to
6 the date of the general election for such office. The candidate shall also be a registered voter and
7 shall be current in the payment of all personal and business taxes. Before entering on the duties
8 of the public administrator's office, the public administrator shall take the oath required by the
9 constitution, and enter into bond to the state of Missouri in a sum not less than ten thousand
10 dollars, with two or more securities, approved by the court and conditioned that the public
11 administrator will faithfully discharge all the duties of the public administrator's office, which
12 bond shall be given and oath of office taken on or before the first day of January following the
13 public administrator's election, and it shall be the duty of the judge of the court to require the
14 public administrator to make a statement annually, under oath, of the amount of property in the
15 public administrator's hands or under the public administrator's control as such administrator, for
16 the purpose of ascertaining the amount of bond necessary to secure such property; and such court
17 may from time to time, as occasion shall require, demand additional security of such
18 administrator, and, in default of giving the same within twenty days after such demand, may
19 remove the administrator and appoint another.

20 2. The public administrator in all counties, in the performance of the duties required by
21 chapters 473, 474, and 475, is a public officer. The duties specified by section 475.120 are

22 discretionary. The county shall defend and indemnify the public administrator against any
23 alleged breach of duty, provided that any such alleged breach of duty arose out of an act or
24 omission occurring within the scope of duty or employment.

25 3. After January 1, 2001, all salaried public administrators shall be considered county
26 officials for purposes of section 50.333, subject to the minimum salary requirements set forth in
27 section 473.742.

28 **4. If a vacancy shall occur in any county that has not adopted a charter form of**
29 **government and in the office of an elected public administrator, then the governor shall,**
30 **no later than sixty days after the occurrence of such vacancy, appoint a person to fill the**
31 **vacancy subject to the advice and consent of the senate. The process will be subject to the**
32 **procedures for advice and consent under article IV, section 51 of the Constitution of**
33 **Missouri.**

34 [4.] 5. The public administrator for the city of St. Louis shall be appointed by a majority
35 of the circuit judges and associate circuit judges of the twenty-second judicial circuit, en banc.
36 Such public administrator shall meet the same qualifications and requirements specified in
37 subsection 1 of this section for elected public administrators. The elected public administrator
38 holding office on August 28, 2013, shall continue to hold such office for the remainder of his or
39 her term.

483.020. When any vacancy shall occur in the office of any circuit clerk so elected, by
2 death, resignation, removal, refusal to act or otherwise, it shall be the duty of the governor in the
3 case of an elected clerk to fill such vacancy, **no later than sixty days after it occurs**, by
4 appointing some eligible person to said office, **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 who shall discharge the duties thereof until the next general election, at which time a clerk shall
7 be chosen for the remainder of the term, who shall hold [his] **such** office until [his] a successor
8 is duly elected and qualified, unless sooner removed. **This section shall not apply to any**
9 **county that has adopted a charter for its own government under article VI, section 18 of**
10 **the Constitution of Missouri.**

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.

✓