

FINAL BILL REPORT

HB 2206

C 71 L 99

Synopsis as Enacted

Brief Description: Allowing declaratory judgment actions when county elected officials have abandoned their responsibilities.

Sponsors: Representatives Mulliken, Scott, Carrell and Constantine.

House Committee on Local Government
Senate Committee on State & Local Government

Background:

A county elected official is required to take an oath of office to faithfully and impartially discharge the duties of office to the best of his or her abilities. A county elected official is paid a salary for the services required by law. Before entering office, an official must post a bond subject to the condition that he or she will faithfully perform the duties of his or her office.

By statute, a county office is considered vacant for the following reasons: death; resignation; removal; ceasing to be a registered voter in the county; conviction of a felony, or any offense involving a violation of an oath of office; neglect by the official to take the oath of office; the election being declared void; and a judgment against the incumbent for breach of the condition of the bond. However, there are no specific vacancy provisions for abandonment of office.

A declaratory judgment is a judicial remedy for the determination of a justiciable controversy where the plaintiff is in doubt with respect to his or her legal rights. A court's declaratory judgment is a binding adjudication of the rights and status of litigants even though no consequential relief is awarded.

Summary:

A county legislative authority may file an action in superior court seeking a declaratory judgment that a county elected official has abandoned his or her responsibilities. Abandonment is caused by being absent from the county for 30 consecutive days. Absences approved by the county legislative authority or absences for medical or disability leave are not considered abandonment.

The county official is not eligible to receive compensation from the date a declaratory judgment is issued finding abandonment until a court issues another declaratory judgment finding that the official has resumed performing his or her duties.

Votes on Final Passage:

House 96 0

Senate 44 0

Effective: July 25, 1999