

# HOUSE BILL REPORT

## HB 2206

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### As Passed Legislature

**Title:** An act relating to declaratory judgment actions finding that county elected officials have abandoned their responsibilities.

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

**Sponsors:** Representatives Mulliken, Scott, Carrell and Constantine.

#### **Brief History:**

##### **Committee Activity:**

Local Government: 3/1/99 [DP].

##### **Floor Activity:**

Passed House: 3/11/99, 96-0.

Passed Senate: 4/6/99, 44-0.

Passed Legislature.

#### **Brief Summary of Bill**

- Allows a county legislative authority to declare that a county elected official has abandoned his or her official responsibilities, and is no longer eligible to receive compensation.

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### HOUSE COMMITTEE ON LOCAL GOVERNMENT

**Majority Report:** Do pass. Signed by 8 members: Representatives Mulliken, Republican Co-Chair; Scott, Democratic Co-Chair; Doumit, Democratic Vice Chair; Mielke, Republican Vice Chair; Edwards; Ericksen; Fisher and Fortunato.

**Staff:** Scott MacColl (786-7106).

#### **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.

Statutory provisions describe when a vacancy of office exists. A vacancy is caused by 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 remedy for the determination of a justiciable controversy where the plaintiff is in doubt with respect to his or her legal rights. A declaratory judgment is a binding adjudication of the rights and status of litigants even though no consequential relief is awarded.

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**Summary of Bill:**

A county legislative authority may take 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 that the official has resumed performing his or her duties.

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**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** If a county elected official has abandoned his or her office, the county is allowed with this bill to go to court to declare the office abandoned. This bill is important for small rural counties that can't afford to pay an official that is not performing his or her duties.

**Testimony Against:** None.

**Testified:** Representative Mulliken, prime sponsor.