
Local Government Committee

BILL ANALYSIS HB 2206

TITLE OF THE BILL: An act relating to declaratory judgment actions finding that county elected officials have abandoned their responsibilities.

WHAT THIS BILL DOES: *Allows a county legislative authority to seek a declaratory judgement that a county elected official has abandoned his or her responsibilities.*

SPONSORS: Representatives Mulliken, Scott, Carrell, and Constantine

HEARING DATE: Monday, March 1, 1999

FISCAL NOTE: Not requested.

ANALYSIS PREPARED BY: 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. 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.

A county elected official is paid a salary for the services required by law. A county official must not be paid by the county auditor without a receipt, signed by the treasurer, stating that all required monthly statements and settlements have been made. Monthly statements and settlements relate to accounting for all money which may come into the official's possession by virtue of the 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.

SUMMARY:

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 of a declaratory judgment is issued finding abandonment until a court issues another declaratory judgment that the official has resumed performing his or her duties.