

What Happens When An Elected Official Vacates Their Office?

WRITTEN BY
Rae Grulkowski, Stockett, MT

Did you ever wonder how officials are appointed to seats when there is a vacancy that occurs prior to their term ending by election? You might be surprised to know it is the authority of the County Commission to appoint the individual. And it is the role of the County Central Committee(s) to provide the list of candidates which the County Commissioners may choose from. This is the case with all your County elected officials' positions as well as with Legislative representatives.

Recent appointments in Cascade County were Don Ryan (D), County Commissioner, District 3, in February 2021 and Eric Tilleman (R), HD 23, in July 2024.

The statute to reference for filling vacancies in the County Commission is MCA 7-4-2106
 The statute to reference for filling vacancies in the Legislature is MCA 5-2-402

Don Ryan (D) was appointed to the County Commissioner, District 3 seat when former Commissioner Jane Weber (D), resigned in January 2020, after serving 2 years of her 6 year term. By statute, the democrat central committee was responsible to submit a list of 3 candidates who reside in the vacated district (in this case, district 3), and who have lived in the vacated district for at least 2 years immediately preceding the day the vacancy occurred. It is worth mentioning that it is the responsibility for the Central Committees to provide those lists, by lawfully quorum meetings whereby action may be taken with full representation of the central committee.

County Commissioners were not able to select from the list of the first three candidates submitted so they requested a second list of three from the Democrat Central Committee. Pursuant to MCA 7-4-2106(a), “*Whenever the remaining commissioners are unable to elect an appointee from the submitted list, they shall request a second list of three names from the county central committee. The second list may not contain any of the names submitted on the first list. The remaining commissioners shall then select an appointee from the individuals named on both lists.*”

Don Ryan was officially appointed in a Commissioners meeting on February 10, 2021. But that did not mean the appointment was for 6 years, as is the term of a County Commissioner. When appointed, the successful candidate serves only until the next General Election. In this case, the next General Election was November of 2022. Ryan chose to run as a candidate and lost the election to Rae Grulkowski. Grulkowski then fulfilled the remaining two years of Weber’s 6 year term for district 3. In 2024, this seat was up for election again because the 6 year term ended, and Eric Hinebaugh won as your new County Commissioner in district 3.

Eric Tilleman (R) was appointed to the Montana House District 23 Representative seat when former Representative Scot Kerns

(R) resigned in June of 2024, 6 months prior to the end of this term. The republican central committee was then responsible to submit a list of 3 candidates, but it was not required they live in HD23. Statute is a bit different for legislative representatives in this manner, with legislative candidates *not* having to live in the district they run for. The County Commissioners were able to choose from the first list of 3 but a second list of 3 is granted by statute if it were needed.

Tilleman was officially appointed in a Commissioner meeting on July 22, 2024. He served in the appointment until the seat was up for election in the General Election of November, 2024. Tilleman did win that election and is now serving the full term.

A few things to point out:

In both County Commission and Legislative vacancies, if the vacating officer was a non-partisan party or independent, the Commissioners shall invite applications for the vacancy in a notice published and shall accept an application from any person who has lived in the unrepresented district for at least 2 years immediately preceding the day the vacancy occurs. Central Committees are not used in these cases.

If the vacant district in a Legislative vacancy crosses county lines, there are specific laws addressing procedures for joint appointment by County Commissioners of both counties.

If there are multiple vacancies on the Board of County Commissioners, and a quorum cannot be obtained, the County Compensation Board holds the authority to appoint the first vacancy of the Commissioner so there is a quorum of Commissioners to appoint the next vacancy.

And as you can imagine, there are specific timelines in statute so time is always of the essence.

What are the Events that Classify an Office As Vacant?

MCA 2-16-501. **Vacancies created.** An office becomes vacant on the occurrence of any one of the following events before the expiration of the term of the incumbent:

- (1) the death of the incumbent;
- (2) a determination pursuant to Title 53, chapter 21, part 1, that the incumbent suffers from a mental disorder and is in need of commitment;
- (3) the effective date stipulated in the resignation of the incumbent;
- (4) removal of the incumbent from office;
- (5) the incumbent’s ceasing to be a resident of the state or, if the office is local, of the district, city, county, town, or township for which the incumbent was chosen or appointed or within which the duties of the incumbent’s office are required to be discharged;
- (6) except as provided in **10-1-1008**, absence of the incumbent from the state, without the

permission of the legislature, beyond the period allowed by law;

(7) the incumbent’s ceasing to discharge the duty of the incumbent’s office for the period of 3 consecutive months, except when prevented by sickness, when absent from the state by permission of the legislature, or as provided in **10-1-1008**;

(8) conviction of the incumbent of a felony or of an offense involving moral turpitude or a violation of the incumbent’s official duties;

(9) the incumbent’s refusal or neglect to file the incumbent’s official oath or bond within the time prescribed;

(10) the decision of a competent tribunal declaring void the incumbent’s election or appointment.

The Power of the County Central Committees

A County Central Committee means the designated body within a county in Montana that directs the activities of the republican or democrat party in their county. Central Committees are comprised of an elected board with four voting members representing at the state level party, which usually meets once a year to vote on the respective party platforms, vote to elect state party officers and vote on the rules for the respective state GOP or Democrat party.

Aside from the elected board (elected by nomination of the membership), there are as many members on the central committee as there are precincts in that County x 2. The membership is made up of precinct committeemen and precinct committeewomen. These precinct positions are filled by County ballot election in the primary (June) every 2 years – in even numbered years. Did you notice these positions on your ballot in June of 2024?

It is not the Board members, but the precinct committeeman and committeewoman who are the most critical positions of the Republican and Democrat Central Committees. This is where the voting power lies . . . where the rubber meets the road. Only precinct committeemen and precinct committeewoman may vote in County Central Committee meetings. Unless Board members are also precinct committee persons, they may not vote.

More of this critical power is demonstrated with the ability of the Central Committees to nominate party candidates for appointment by County Commissioners. It is important that you fill your Central Committee with precinct committee persons who truly stand for your values, and consider running for these positions yourself. Precinct committeeman and committee women positions are a great place for citizens to start their public service. Again, these position are up for election every two years. Think about running to represent your precinct in June of 2026! 