

FEB 3 2006
Place On Calendar

HOUSE FILE 2240
BY COMMITTEE ON LOCAL GOVERNMENT

(SUCCESSOR TO HSB 518)

Passed House, Date 2-22-06 Passed Senate, Date 3-28-06

Vote: Ayes 98 Nays 0 Vote: Ayes 50 Nays 0

Re-passed 4-4-06 Approved April 20, 2006
94-0

A BILL FOR

1 An Act relating to county board of supervisor vacancies.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 2240

1 Section 1. Section 331.214, Code 2005, is amended to read
2 as follows:

3 331.214 VACANCY OF SUPERVISOR'S OFFICE.

4 1. In-addition-to-the The circumstances which constitute a
5 vacancy in office under section 69.2, ~~the absence of a~~
6 ~~supervisor from the county for sixty consecutive days~~ shall be
7 treated as a resignation of the office. At its next meeting
8 after the sixty-day absence, the board, by resolution adopted
9 and included in its minutes, shall declare the absent
10 supervisor's seat vacant.

11 2. a. If the physical or mental status of a supervisor is
12 in question, the board shall decide whether a vacancy exists.
13 The board shall comply with the notice and hearing
14 requirements of section 69.2, subsection 2. After a hearing,
15 the board, by resolution adopted and included in its minutes,
16 may declare the supervisor's seat vacant if the board
17 determines either of the following:

18 (1) That the supervisor is physically or mentally
19 incapable of performing the duties of office and there is
20 reasonable cause to believe that the supervisor will not be
21 able to perform the duties of office for the remainder of the
22 supervisor's term. To make this determination, the board
23 shall appoint two physicians to examine the supervisor and
24 receive the report of the physicians as evidence at the
25 hearing. The board may only declare the supervisor's seat
26 vacant if both physicians concur that the supervisor is
27 physically or mentally incapable of performing the duties of
28 office and there is reasonable cause to believe that the
29 supervisor will not be able to perform the duties of office
30 for the remainder of the supervisor's term.

31 (2) That the supervisor refuses or is unavailable for the
32 examination required in subparagraph (1).

33 b. A supervisor whose seat is declared vacant under this
34 subsection may appeal the board's decision to the district
35 court.

EXPLANATION

1
2 This bill addresses vacancies that may occur in the county
3 board of supervisors. The bill makes Code section 331.214
4 relating to a supervisor vacancy consistent with Code section
5 69.2 that applies to any vacancy in public office. The bill
6 also requires that if the physical or mental status of a
7 supervisor is in question, a county board of supervisors must
8 decide whether a vacancy exists. To declare a vacancy, the
9 board must follow notice and hearing procedures set forth in
10 Code section 69.2, appoint two physicians to examine the
11 supervisor, and if the two physicians concur that the
12 supervisor is incapable of performing the duties of office and
13 probably will be incapable for the remainder of the
14 supervisor's term, the board may declare a vacancy. If a
15 supervisor refuses or is unavailable for examination, the
16 board may, after notice and hearing, declare the supervisor's
17 seat vacant. A supervisor may appeal a board's decision to
18 the district court.

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S-5122

1 Amend House File 2240, as passed by the House, as
2 follows:

3 1. Page 1, by inserting before line 1 the
4 following:

5 "Section 1. Section 69.14A, subsection 1,
6 unnumbered paragraph 1, Code 2005, is amended to read
7 as follows:

8 A vacancy on the board of supervisors shall be
9 filled by one of the ~~two~~ following procedures:

10 Sec. ____ . Section 69.14A, subsection 1, Code 2005,
11 is amended by adding the following new paragraph:

12 NEW PARAGRAPH. c. For a vacancy declared by the
13 board pursuant to section 331.214, subsection 2, by
14 special election held to fill the office if the
15 remaining balance of the unexpired term is two and
16 one-half years or more. The committee of county
17 officers designated to fill the vacancy in section
18 69.8 shall order the special election at the earliest
19 practicable date, but giving at least thirty-two days'
20 notice of the election. A special election called
21 under this section shall be held on a Tuesday and
22 shall not be held on the same day as a school election
23 within the county. The office shall be listed on the
24 ballot, as "For Board of Supervisors, To Fill
25 Vacancy". The person elected at the special election
26 shall serve the balance of the unexpired term."

27 2. Page 1, line 22 by inserting after the word
28 "board" the following: "shall appoint a physician and
29 the family of the supervisor shall appoint a physician
30 to examine the supervisor. For purposes of this
31 subsection, "family" means the parent, spouse, or
32 child of the supervisor. If the family does not
33 appoint a physician, the board".

34 3. Page 1, line 23, by striking the word "and"
35 and inserting the following: ". The board shall".

36 4. Page 1, line 30, by inserting after the word
37 "term." the following: "However, if the physicians
38 concur that the supervisor is mentally incapable of
39 performing the duties of office, the board shall not
40 declare the supervisor's seat vacant for one year from
41 the date of the hearing if the supervisor is receiving
42 treatment for the mental incapacity."

43 5. Page 1, by inserting after line 35 the
44 following:

45 "c. If the board declares a vacancy under this
46 subsection and the remaining balance of the
47 supervisor's unexpired term is two and one-half years
48 or more, a special election shall be held to fill the
49 office as provided in section 69.14A, subsection 1,
50 paragraph "c."

S-5122

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S-5122

Page 2

1 6. By renumbering as necessary.

COMMITTEE ON LOCAL GOVERNMENT

HERMAN C. QUIRMBACH, CO-CHAIRPERSON

DOUG SHULL, CO-CHAIRPERSON

S-5122 FILED MARCH 22, 2006

**SENATE AMENDMENT TO
HOUSE FILE 2240**

H-8421

1 Amend House File 2240, as passed by the House, as
2 follows:

3 1. Page 1, by inserting before line 1 the
4 following:

5 "Section 1. Section 69.14A, subsection 1,
6 unnumbered paragraph 1, Code 2005, is amended to read
7 as follows:

8 A vacancy on the board of supervisors shall be
9 filled by one of the ~~two~~ following procedures:

10 Sec. ____ Section 69.14A, subsection 1, Code 2005,
11 is amended by adding the following new paragraph:

12 NEW PARAGRAPH. c. For a vacancy declared by the
13 board pursuant to section 331.214, subsection 2, by
14 special election held to fill the office if the
15 remaining balance of the unexpired term is two and
16 one-half years or more. The committee of county
17 officers designated to fill the vacancy in section
18 69.8 shall order the special election at the earliest
19 practicable date, but giving at least thirty-two days'
20 notice of the election. A special election called
21 under this section shall be held on a Tuesday and
22 shall not be held on the same day as a school election
23 within the county. The office shall be listed on the
24 ballot, as "For Board of Supervisors, To Fill
25 Vacancy". The person elected at the special election
26 shall serve the balance of the unexpired term."

27 2. Page 1, line 22 by inserting after the word
28 "board" the following: "shall appoint a physician and
29 the family of the supervisor shall appoint a physician
30 to examine the supervisor. For purposes of this
31 subsection, "family" means the parent, spouse, or
32 child of the supervisor. If the family does not
33 appoint a physician, the board".

34 3. Page 1, line 23, by striking the word "and"
35 and inserting the following: ". The board shall".

36 4. Page 1, line 30, by inserting after the word
37 "term." the following: "However, if the physicians
38 concur that the supervisor is mentally incapable of
39 performing the duties of office, the board shall not
40 declare the supervisor's seat vacant for one year from
41 the date of the hearing if the supervisor is receiving
42 treatment for the mental incapacity."

43 5. Page 1, by inserting after line 35 the
44 following:

45 "c. If the board declares a vacancy under this
46 subsection and the remaining balance of the
47 supervisor's unexpired term is two and one-half years
48 or more, a special election shall be held to fill the
49 office as provided in section 69.14A, subsection 1,
50 paragraph "c.""

H-8421

H-8421

Page 2

1 6. By renumbering as necessary.

RECEIVED FROM THE SENATE

H-8421 FILED MARCH 29, 2006

HSB 518

LOCAL GOVERNMENT

Chair Schickel
Arnold
Olson D

HOUSE FILE _____ succeeded by
BY (PROPOSED COMMITTEE ON 2240
LOCAL GOVERNMENT BILL BY
CHAIRPERSON VAN ENGELENHOVEN)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to county board of supervisor vacancies.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 331.214, Code 2005, is amended to read
2 as follows:

3 331.214 VACANCY OF SUPERVISOR'S OFFICE.

4 1. In-addition-to-the The circumstances which constitute a
5 vacancy in office under section 69.2~~-the-absence-of-a~~
6 ~~supervisor-from-the-county-for-sixty-consecutive-days~~ shall be
7 treated as a resignation of the office. At its next meeting
8 after the sixty-day absence, the board, by resolution adopted
9 and included in its minutes, shall declare the absent
10 supervisor's seat vacant.

11 2. If a board determines after a hearing that a supervisor
12 is physically or mentally incapable of performing the duties
13 of office and there is reasonable cause to believe that the
14 supervisor will not be able to perform the duties of office
15 for the remainder of the supervisor's term, the board, by
16 resolution adopted and included in its minutes, shall declare
17 the supervisor's seat vacant. The board shall comply with the
18 notice and hearing requirements in section 69.2, subsection 2.
19 The board shall appoint two physicians to examine the
20 supervisor and receive the report of the physicians as
21 evidence at the hearing. The board may only declare the
22 supervisor's seat vacant if both physicians concur that the
23 supervisor is physically or mentally incapable of performing
24 the duties of office and there is reasonable cause to believe
25 that the supervisor will not be able to perform the duties of
26 office for the remainder of the supervisor's term. If the
27 supervisor refuses or is unavailable for such examination, the
28 board may proceed to declare the supervisor's seat vacant. A
29 supervisor whose seat has been declared vacant may appeal the
30 board's decision to the district court.

31 EXPLANATION

32 This bill addresses vacancies that may occur in the county
33 board of supervisors. The bill makes Code section 331.214
34 specific to a supervisor vacancy consistent with Code section
35 69.2 that applies to any vacancy in public office. The bill

1 requires that a county board of supervisors declare a
 2 supervisor's seat vacant when the board determines that a
 3 supervisor is physically or mentally incapable of performing
 4 the duties of office. To declare a vacancy, the board must
 5 follow notice and hearing procedures set forth in Code section
 6 69.2, appoint two physicians to examine the supervisor, and if
 7 the two physicians concur that the supervisor is incapable of
 8 performing the duties of office and probably will be incapable
 9 for the remainder of the supervisor's term, the board may
 10 declare a vacancy. If a supervisor refuses or is unavailable
 11 for examination, the board may proceed to declare the
 12 supervisor's seat vacant. A supervisor may appeal a board's
 13 decision to the district court.

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HOUSE FILE 2240

AN ACT

RELATING TO COUNTY BOARD OF SUPERVISOR VACANCIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 69.14A, subsection 1, unnumbered paragraph 1, Code 2005, is amended to read as follows:

A vacancy on the board of supervisors shall be filled by one of the two following procedures:

Sec. 2. Section 69.14A, subsection 1, Code 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. For a vacancy declared by the board pursuant to section 331.214, subsection 2, by special election held to fill the office if the remaining balance of the unexpired term is two and one-half years or more. The committee of county officers designated to fill the vacancy in section 69.8 shall order the special election at the earliest practicable date, but giving at least thirty-two days' notice of the election. A special election called under this section shall be held on a Tuesday and shall not be held on the same day as a school election within the county. The office shall be listed on the ballot, as "For Board of Supervisors, To Fill Vacancy". The person elected at the special election shall serve the balance of the unexpired term.

Sec. 3. Section 331.214, Code 2005, is amended to read as follows:

331.214 VACANCY OF SUPERVISOR'S OFFICE.

1. ~~In-addition-to-the~~ The circumstances which constitute a vacancy in office under section 69.2~~-the-absence-of-a~~ supervisor-from-the-county-for-sixty-consecutive-days shall be treated as a resignation of the office. At its next meeting

after the sixty-day absence, the board, by resolution adopted and included in its minutes, shall declare the absent supervisor's seat vacant.

2. a. If the physical or mental status of a supervisor is in question, the board shall decide whether a vacancy exists. The board shall comply with the notice and hearing requirements of section 69.2, subsection 2. After a hearing, the board, by resolution adopted and included in its minutes, may declare the supervisor's seat vacant if the board determines either of the following:

(1) That the supervisor is physically or mentally incapable of performing the duties of office and there is reasonable cause to believe that the supervisor will not be able to perform the duties of office for the remainder of the supervisor's term. To make this determination, the board shall appoint a physician and the family of the supervisor shall appoint a physician to examine the supervisor. For purposes of this subsection, "family" means the parent, spouse, or child of the supervisor. If the family does not appoint a physician, the board shall appoint two physicians to examine the supervisor. The board shall receive the report of the physicians as evidence at the hearing. The board may only declare the supervisor's seat vacant if both physicians concur that the supervisor is physically or mentally incapable of performing the duties of office and there is reasonable cause to believe that the supervisor will not be able to perform the duties of office for the remainder of the supervisor's term. However, if the physicians concur that the supervisor is mentally incapable of performing the duties of office, the board shall not declare the supervisor's seat vacant for one year from the date of the hearing if the supervisor is receiving treatment for the mental incapacity.

(2) That the supervisor refuses or is unavailable for the examination required in subparagraph (1).

b. A supervisor whose seat is declared vacant under this subsection may appeal the board's decision to the district court.

c. If the board declares a vacancy under this subsection and the remaining balance of the supervisor's unexpired term is two and one-half years or more, a special election shall be held to fill the office as provided in section 69.14A, subsection 1, paragraph "c".

CHRISTOPHER C. RANTS
Speaker of the House

JEFFREY M. LAMBERTI
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2240, Eighty-first General Assembly.

MARGARET THOMSON
Chief Clerk of the House

Approved _____, 2006

THOMAS J. VILSACK
Governor