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H.B. 123
136th General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsors: Reps. Johnson and D. Thomas

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SUMMARY

- Requires vacancies in certain public offices to be filled by the person elected to that office for the next full term.

DETAILED ANALYSIS

Filling vacancies

When a vacancy occurs in certain public offices, and an election has not been held to fill the vacancy,¹ the bill requires the unexpired term to be filled by the individual elected to the following term for that office if the individual qualifies to hold the office. Because general elections happen in November, followed by the official canvass of election results and possible recounts, the bill does not apply to a term that ends in November, December, or January (since the newly elected individual may not be known in time, or would be known only shortly before the new term begins). The bill specifically applies to county auditors (term begins in March),² county treasurers (term begins in September),³ township fiscal officers (term begins in April),⁴

¹ Generally, an election is held to fill the unexpired term when the vacancy happens early in the term. For instance, a county official's vacancy is filled via election if the vacancy occurs at least 40 days before the next general election for state and county officers, unless the term expires within one year following that election. See R.C. 305.02(A).

² R.C. 305.02. See also R.C. 319.001, not in the bill.

³ R.C. 305.02. See also R.C. 321.01, not in the bill.

⁴ R.C. 503.24. See also R.C. 507.01, not in the bill.

and village clerk or clerk-treasurer (term begins in April).⁵ Otherwise, the bill applies generally to any public office for which the term ends in a month other than November, December, or January.⁶ However, for certain public offices, the Ohio Constitution sets the procedure for filling a vacancy; those offices are not subject to the bill.⁷

Process

If a vacancy occurs, the unexpired term is not filled by an election, an individual has been certified as elected to the office for the following full term, and the individual qualifies currently, then the appointing authority⁸ must notify the individual to provide a copy of the individual's certificate of election to the appointing authority. After being presented the certificate, the appointing authority must appoint the person to the office for the remainder of the unexpired term. If an unexpired term previously was filled by appointment by an individual who is not the person elected to the following term, the appointing authority must replace that individual with the person who becomes certified as elected to the office for the following full term (if they qualify).⁹

The bill's provisions apply only to a vacancy that occurs after the bill takes effect.¹⁰

HISTORY

Action	Date
Introduced	02-24-25

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⁵ R.C. 733.31. See also R.C. 733.26 and 733.261, not in the bill. City auditors' and city/village treasurers' terms end in December (R.C. 733.10 and 733.42). A charter municipality may vary from statutory procedures (Ohio Constitution, Article XVIII, Sections 3 and 7; *Northern Ohio Patrolmen's Benevolent Ass'n v. Parma*, 61 Ohio St.2d 375 (1980)).

⁶ R.C. 3.02 and 733.31.

⁷ Mainly, judges, whose term dates are set by law (Article IV, Section 13). General Assembly members' and statewide executives' terms end in December or January and they would not be subject to the bill regardless (Article II, Section 11 and Article III, Sections 15, 17, 17a, and 18).

⁸ If a committee of a political party or a committee of persons designated by a candidate would be the appointing authority, then the person/board that is designated to make an appointment to fill a vacancy in the case of an independent candidate is the appointing authority under the bill. R.C. 3.02(B)(4). For instance, the board of county commissioners is the appointing authority for county vacancies under the bill. R.C. 305.02.

⁹ R.C. 3.02 (general provision), 302.09, 305.02 (county auditor and treasurer), 503.24 (township fiscal officer), and 733.31 (municipal officers).

¹⁰ Section 3.