

1.1 A bill for an act

1.2 relating to local government; providing for a public hearing and public testimony
1.3 before making an appointment to fill a vacancy on a county board or city council;
1.4 changing the time period in which an appointment may be made; amending
1.5 Minnesota Statutes 2006, sections 375.101, by adding a subdivision; 412.02,
1.6 subdivision 2a, by adding a subdivision; Minnesota Statutes 2007 Supplement,
1.7 section 375.101, subdivision 4.

1.8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.9 Section 1. Minnesota Statutes 2007 Supplement, section 375.101, subdivision 4,
1.10 is amended to read:

1.11 Subd. 4. **Option for filling vacancies; appointment.** Except as provided in
1.12 subdivision 3, and as an alternative to the procedure provided in subdivisions 1 and 2, any
1.13 other vacancy in the office of county commissioner may be filled by board appointment at
1.14 a regular or special meeting. The appointment shall be evidenced by a resolution entered
1.15 in the minutes and shall continue until an election is held under this subdivision. All
1.16 elections to fill vacancies shall be for the unexpired term. ~~If the vacancy occurs before the~~
1.17 ~~first day to file affidavits of candidacy for the next county general election and more than~~
1.18 ~~two years remain in the unexpired term, a special election shall be held in conjunction~~
1.19 ~~with the county general election. The appointed person shall serve until the qualification~~
1.20 ~~of the successor elected to fill the unexpired part of the term at that special election. If~~
1.21 ~~the vacancy occurs on or after the first day to file affidavits of candidacy for the county~~
1.22 ~~general election, or when less than two years remain in the unexpired term, there shall be~~
1.23 ~~no special election to fill the vacancy and the appointed person shall serve the remainder~~
1.24 ~~of the unexpired term and until a successor is elected and qualifies at the county general~~
1.25 ~~election.~~ If more than one year remains until the next county general election, a special

S.F. No. 3378, 1st Engrossment - 2007-2008th Legislative Session (2007-2008)

2.1 election must be held under subdivision 1. If one year or less remains until the next
2.2 county general election, the board may appoint a person to fill the vacancy until a qualified
2.3 successor is elected at the next county general election.

2.4 Sec. 2. Minnesota Statutes 2006, section 375.101, is amended by adding a subdivision
2.5 to read:

2.6 Subd. 5. **County boards.** Before making an appointment to fill a vacancy under
2.7 subdivision 4, the county board must hold a public hearing not more than 30 days after
2.8 the vacancy occurs with public notice given in the same manner as for a special meeting
2.9 of the county board. At the public hearing the board must receive public testimony from
2.10 persons residing in the district in which the vacancy occurs relating to the qualifications
2.11 of prospective appointees to fill the vacancy. Before making an appointment, the board
2.12 also must notify public officials in the affected district on the appointment, including town
2.13 board and city council members, and must enter into the record at the board meeting in
2.14 which the appointment is made the names and addresses of the public officials notified. If
2.15 after the public hearing, the board is unable or decides not to make an appointment under
2.16 subdivision 4, it must hold a special election under subdivision 1, but the time period in
2.17 which the election must be held begins to run from the date of the public hearing.

2.18 Sec. 3. Minnesota Statutes 2006, section 412.02, subdivision 2a, is amended to read:

2.19 Subd. 2a. **Vacancy.** Except as otherwise provided in subdivision 2b, a vacancy in an
2.20 office shall be filled by council appointment until an election is held as provided in this
2.21 subdivision. In case of a tie vote in the council, the mayor shall make the appointment. ~~If~~
2.22 ~~the vacancy occurs before the first day to file affidavits of candidacy for the next regular~~
2.23 ~~city election and more than two years remain in the unexpired term, a special election shall~~
2.24 ~~be held at or before the next regular city election and the appointed person shall serve until~~
2.25 ~~the qualification of a successor elected at a special election to fill the unexpired portion of~~
2.26 ~~the term. If the vacancy occurs on or after the first day to file affidavits of candidacy for~~
2.27 ~~the regular city election or when less than two years remain in the unexpired term, there~~
2.28 ~~need not be a special election to fill the vacancy and the appointed person shall serve until~~
2.29 ~~the qualification of a successor~~ If more than one year remains until the next regular city
2.30 election, a special election must be held within 90 days of the vacancy to fill the vacant
2.31 position. If one year or less remains until the next city general election, the council may
2.32 appoint a person to fill the vacant position until a successor is qualified at the next city
2.33 general election. The council must specify by ordinance under what circumstances it will

S.F. No. 3378, 1st Engrossment - 2007-2008th Legislative Session (2007-2008)

3.1 hold a special election to fill a vacancy other than a special election held at the same
3.2 time as the regular city election.

3.3 Sec. 4. Minnesota Statutes 2006, section 412.02, is amended by adding a subdivision
3.4 to read:

3.5 Subd. 2c. **City council.** Before making an appointment to fill a vacancy under
3.6 subdivision 2a, the city council must hold a public hearing not more than 30 days after the
3.7 vacancy occurs with public notice given in the same manner as for a special meeting of
3.8 the city council. At the public hearing the council must receive public testimony from city
3.9 residents relating to the qualifications of prospective appointees to fill the vacancy. Before
3.10 making an appointment, the council also must notify the county auditor. If after the public
3.11 hearing, the council is unable or decides not to make an appointment under subdivision
3.12 2a, it must hold a special election, but the time period in which the election must be held
3.13 begins to run from the date of the public hearing.