



# **HOW TO FILL A VACANCY FOR A COUNTY OFFICE**

THIS REFERENCE GUIDE HAS BEEN PREPARED IN AN EFFORT TO PROVIDE ANSWERS TO FREQUENTLY ASKED QUESTIONS CONCERNING VACANCIES IN LOCAL OFFICES. IT IS FOR GENERAL INFORMATION ONLY AND DOES NOT HAVE THE FORCE AND EFFECT OF LAW.

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## COUNTY OFFICE VACANCIES FILLING PROCESS

Pursuant to **Government Code § 1770** an office becomes vacant on the happening of any of the following events before the expiration of the term:

- (a) The death of the incumbent.
- (b) An adjudication pursuant to a quo warranto proceeding declaring that the incumbent is physically or mentally incapacitated due to disease, illness, or accident, and that there is reasonable cause to believe that the incumbent will not be able to perform the duties of his or her office for the remainder of his or her term. This subdivision shall not apply to offices created by the California Constitution nor to federal or state legislators.
- (c) (1) His or her resignation, except as provided in paragraph (2).  
(2) In the case of the office of city council member, upon the delivery of a letter of resignation by the resigning council member to the city clerk. The letter of resignation may specify a date on which the resignation will become effective.
- (d) His or her removal from office.
- (e) His or her ceasing to be an inhabitant of the state, or if the office be local and one for which local residence is required by law, of the district, county, or city for which the officer was chosen or appointed, or within which the duties of his or her office are required to be discharged.
- (f) His or her absence from the state without the permission required by law beyond the period allowed by law.
- (g) His or her ceasing to discharge the duties of his or her office for the period of three consecutive months, except when prevented by sickness, or when absent from the state with the permission required by law.
- (h) His or her conviction of a felony or of any offense involving a violation of his or her official duties. An officer shall be deemed to have been convicted under this subdivision when trial court judgment is entered. For purposes of this subdivision, "trial court judgment" means a judgment by the trial court either sentencing the officer or otherwise upholding and implementing the plea, verdict, or finding.
- (i) His or her refusal or neglect to file his or her required oath or bond within the time prescribed.
- (j) The decision of a competent tribunal declaring void his or her election or appointment.
- (k) The making of an order vacating his or her office or declaring the office vacant when the officer fails to furnish an additional or supplemental bond.

## COUNTY OFFICE VACANCIES FILLING PROCESS (Cont.)

- (l) His or her commitment to a hospital or sanitarium by a court of competent jurisdiction as a drug addict, dipsomaniac, inebriate, or stimulant addict; but in that event the office shall not be deemed vacant until the order of commitment has become final.

## VACANCIES IN OFFICES OF THE BOARD OF SUPERVISORS

Whenever a vacancy occurs in a board of supervisors, the Governor shall fill the vacancy. The appointee shall hold office until the election and qualification of his or her successor.

The election of a supervisor to fill the vacancy for the **unexpired term** shall be held at the next general election, unless the term expires on the first Monday after January 1st succeeding the election.

When a vacancy occurs from the failure of the person elected to file his or her oath or bond as provided by law, and the person elected is appointed to fill the vacancy, he or she shall hold office for the unexpired term.

**Gov. Code § 25304**

## VACANCIES IN THE ASSESSOR, DISTRICT ATTORNEY, AND SHERIFF OFFICES

The board of supervisors shall fill by appointment all vacancies that occur in any office filled by the appointment of the board and elective county officers, except judge of the superior court and supervisors. The appointee shall hold office for the unexpired term or until the first Monday after January 1st succeeding the next general election.

If on the first Monday after January 1 following a general election the person elected to an elective county office has resigned or died, the board of supervisors shall provide that the office which was made vacant shall be filled at the next regularly scheduled election. The board of supervisors may appoint a person to temporarily carry out the duties of any office to be filled by such an election and that person shall serve until the results of the election are declared.

**Gov. Code § 25304.5**

The person elected shall serve for the remainder of the term which began on the first Monday after January 1 immediately preceding the election.

## TERMS OF SUPERVISORIAL OFFICES

At each general election at which the Governor is to be elected, and **every four years thereafter, supervisors shall be elected from the First and Third Supervisorial districts**, whose terms shall be four years, beginning at noon the first Monday in December following their election, and ending at noon on the first Monday in December, four years thereafter; provided that each shall hold office until his successor is elected and qualified.

### **TERMS OF SUPERVISORIAL OFFICES (Cont.)**

At each general election at which the office of President appears on the ballot, and **every four years thereafter, supervisors shall be elected from the Second, Fourth and Fifth districts**, whose terms shall be four years, beginning at noon on the first Monday in December following their election, and ending at noon on the first Monday in December, four years thereafter; provided that each shall hold office until his successor is elected and qualified.

**LA County Charter, Art II § 6**

### **TERMS OF SHERIFF AND ASSESSOR OFFICES**

At each general election at which the Governor is to be elected, and **every four years thereafter, a Sheriff and Assessor** shall be elected, whose terms shall be four years, beginning at noon on the first Monday in December following their election, and ending at noon on the first Monday in December four years thereafter. All elective County officers shall hold office until their successors are elected and qualified.

**LA County Charter, Art. IV § 13**

### **TERM OF DISTRICT ATTORNEY OFFICE**

At each general election at which the office of President appears on the ballot, and **every four years thereafter, a District Attorney** shall be elected, whose term shall be four years, beginning at noon on the first Monday in December following his election, and ending at noon on the first Monday in December, four years thereafter.

**LA County Charter, Art. IV § 13**