



# **HOW TO FILL A VACANCY FOR A SPECIAL DISTRICT 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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## **SPECIAL DISTRICT OFFICE VACANCY 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.

## **SPECIAL DISTRICT OFFICE VACANCY 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.

### **VACANCY IN OFFICE OF A SPECIAL DISTRICT Gov. Code § 1780**

- (a) Notwithstanding any other provision of law, a vacancy in any elective office on the governing board of a special district, other than those specified in **Government Section § 1781**, shall be filled pursuant to this section.
- (b) The district shall notify the county elections official of the vacancy no later than **15 days after either the date on which the district board is notified of the vacancy or the effective date of the vacancy**, whichever is later.
- (c) The remaining members of the district board may fill the vacancy either by appointment pursuant to subdivision (d) or by calling an election pursuant to subdivision (e).
- (d) (1) The remaining members of the district board shall make the appointment pursuant to this subdivision within 60 days after either the date on which the district board is notified of the vacancy or the effective date of the vacancy, whichever is later. The district **shall post a notice of the vacancy in three or more conspicuous places** in the district at least 15 days before the district board makes the appointment. The **district shall notify the county elections official of the appointment no later than 15 days after the appointment.**
- (2) **If the vacancy occurs in the first half of a term** of office and at least 130 days prior to the next general district election, the person appointed to fill the vacancy shall hold office until the next general district election that is scheduled 130 or more days after the date the district board is notified of the vacancy, and thereafter until the person who is elected at that election to fill the vacancy has been qualified. The person elected to fill the vacancy shall hold office for the unexpired balance of the term of office.
- (3) **If the vacancy occurs in the first half of a term** of office, but less than 130 days prior to the next general district election, or if the vacancy occurs in the second half of a term of office, the person appointed to fill the vacancy shall fill the balance of the unexpired term of office.
- (e) (1) In lieu of making an appointment the remaining members of the board may within 60 days of the date the district board is notified of the vacancy or the effective date of the vacancy, whichever is later, call an election to fill the vacancy.

## VACANCY IN OFFICE OF A SPECIAL DISTRICT

- (2) The election called pursuant to this subdivision shall be held on the next established election date provided in Chapter 1 (commencing with Section 1000) of Division 1 of the Elections Code that is 130 or more days after the date the district board calls the election.
- (f) (1) **If the vacancy is not filled by the district board by appointment**, or if the district board has not called for an election within 60 days of the date the district board is notified of the vacancy or the effective date of the vacancy, whichever is later, then the city council of the city in which the district is wholly located, or if the district is not wholly located within a city, the board of supervisors of the county representing the larger portion of the district area in which the election to fill the vacancy will be held, may appoint a person to fill the vacancy within 90 days of the date the district board is notified of the vacancy or the effective date of the vacancy, whichever is later, or the city council or board of supervisors **may order the district to call an election to fill the vacancy**.
- (2) The election called pursuant to this subdivision shall be held on the next established election date provided in Chapter 1 (commencing with Section 1000) of Division 1 of the Elections Code that is 130 or more days after the date the city council or board of supervisors calls the election.
- (g) (1) If within 90 days of the date the district board is notified of the vacancy or the effective date of the vacancy, whichever is later, the remaining members of the district board or the appropriate board of supervisors or city council have not filled the vacancy and no election has been called for, then **the district board shall call an election to fill the vacancy**.
- (2) The election called pursuant to this subdivision shall be held on the next established election date provided in Chapter 1 (commencing with **Elec. Code § 1000**) of Division 1 of the Elections Code that is 130 or more days after the date the district board calls the election.
- (h) (1) Notwithstanding any other provision of this section, if the number of remaining members of the district board **falls below a quorum**, then at the request of the district secretary or a remaining member of the district board, the appropriate board of supervisors or the city council shall promptly appoint a person to fill the vacancy, or may call an election to fill the vacancy.
- (2) The board of supervisors or the city council shall only fill enough vacancies by appointment or by election to provide the district board with a quorum.
- (3) **If the vacancy occurs in the first half of a term** of office and at least 130 days prior to the next general district election, the person appointed to fill the vacancy shall hold the office until the next general district election that is scheduled 130 or more days after the date the district board is notified of the vacancy, and

thereafter until the person who is elected at that election to fill the vacancy has been qualified. The person elected to fill the vacancy shall hold office for the unexpired balance of the term of office.

- (4) If the vacancy occurs in the first half of a term of office, but less than 130 days prior to the next general district election, or if the vacancy occurs in the second half of a term of office, the person appointed to fill the vacancy shall fill the balance of the unexpired term of office.
- (5) The election called pursuant to this subdivision shall be held on the next established election date provided in Chapter 1 (commencing with **Elec. Code § 1000**) of Division 1 of the Elections Code that is held 130 or more days after the date the city council or board of supervisors calls the election.

### **TERM OF OFFICE**

Elective officers, elected or appointed pursuant to this part, **take office at noon on the first Friday in December** next following the general district election. Prior to taking office, each elective officer shall take the official oath and execute any bond required by the principal act. the term of office of each elective officer, elected or appointed is four years or until his or her successor qualifies and takes office. **Elec. Codes § 10507 and 10554.**

For **Municipal Water Districts**, directors elected to office shall take office at noon on the first Friday in December succeeding their election. **Water Code § 71253.**

### **ESTABLISHED ELECTION DATES**

#### **Elec. Code § 1000**

- (a) The first Tuesday after the first Monday in March of each even-numbered year that is evenly divisible by four.
- (b) The first Tuesday after the first Monday in March of each odd-numbered year.
- (c) The second Tuesday of April in each even-numbered year.
- (d) The first Tuesday after the first Monday in June in each even-numbered year that is not evenly divisible by four.
- (e) The first Tuesday after the first Monday in November of each year.