

LACK OF QUORUM TO ACT WITHIN 60 DAYS — If the number of remaining members of the district board falls below a quorum, at the request of the district secretary, or a remaining board member, the Board of Supervisors or the city council may waive the 60 day period during which time the district board is allowed to take action, but is unable to because there is no quorum, and move directly to the 30 day period where the city council or Board of Supervisors may take action.

The council or board may either appoint immediately to fill the vacancy, or may call an election to fill the vacancy.

The election shall be held on the next established election date that is 130 or more days after the date the district board calls the election. **Gov. Code § 1780 (g) (2)**

The Board of Supervisors or the city council shall only fill enough vacancies to provide the board with a quorum. **Gov. Code § 1780 (h) (2)**

IF THE CITY COUNCIL OR BOARD OF SUPERVISORS FAILS TO ACT — 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, and no action has been taken by any governing body to fill the vacancy by appointment or by calling for a special election, the district must call an election to fill the vacancy. **Gov. Code § 1780 (g) (1)**

The election shall be held on the next established election date that is 130 or more days after the date the district board calls the election. **Gov. Code § 1780 (g) (2)**

A person appointed to fill a vacancy shall hold office only until the next general district election that is scheduled 130 or more days after the date the county elections official is notified of the vacancy and thereafter until the person elected at that election to fill the vacancy has been qualified to fill the vacancy for the remainder of the unexpired term.

ELECTION — A person elected at an election to fill the vacancy shall hold office for the remainder of the unexpired term. **Gov. Code § 1780 (d) (2)**

TERM OF OFFICE — A person elected at a regular board member election or appointed in-lieu of election takes office at noon on the first Friday in December following his or her election in November (odd years) and at noon on the first Monday after January 1st following the election (even years) and shall serve for four years. **Elects. Code § 10554, 10507 and Gov. Code § 24200**

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**

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This reference guide has been prepared in an effort to provide answers to frequently asked questions concerning filling vacancies in local offices. It is for general information only and does not have the force and effect of law. Persons using this guide must bear full responsibility to make their own determinations as to all legal standards and duties.

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HOW TO FILL A VACANCY

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

The death of the incumbent.

An adjudication pursuant to a quo warranto proceeding declaring that the incumbent is physically or mentally incapacitated due to disease, illness, or accident.

His or her resignation.

His or her removal from office.

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.

His or her absence from the state without the permission required by law beyond the period allowed by law.

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.

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.

His or her refusal or neglect to file his or her required oath or bond within the time prescribed.

The decision of a competent tribunal declaring void his or her election or appointment.

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.

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

VACANCY — The district shall notify the county elections official of the vacancy no later than 15 days following either the date on which the district board is notified of the vacancy or the effective date of the vacancy, whichever is later.

Gov. Code § 1780 (a) and (b).

ACTION REQUIRED BY GOVERNING BOARD — The remaining district board members have 60 days immediately subsequent to either the date on which the district board is notified of the vacancy or the effective date of the vacancy, whichever is later, to either fill the vacancy: a) by appointment or b) by calling a special election. **Gov. Code § 1780 (c)**

APPOINTMENT — If the board decides to appoint someone to fill the vacancy, the board first must post a notice of the vacancy in three or more conspicuous places in the district at least 15 days before the appointment is made.

Gov. Code § 1780 (d) (1)

The board must notify the county elections of the appointment no later than 15 days after the appointment is made.

Gov. Code § 1780 (d) (1)

The person appointed 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 elected at that election to fill the vacancy has been qualified. The person elected to fill the vacancy shall fill the balance of the unexpired term. If the term of office is due to expire following the next general district election and that election is scheduled 130 or more days after the date the county elections official is notified of the vacancy, the person appointed to the vacancy shall fill the balance of the unexpired term of his or her predecessor. **Gov. Code § 1780 (d) (2) (3)**

In Robson v. Upper San Gabriel Valley Municipal Water District (2006) 142 Cal. App. 4th 877, the Court of Appeal interpreted this code provision as follows:

a) If a vacancy occurs in the **first two years of the four-year term**, and the election is at least 130 days from the date the board has notice of the vacancy, the appointee may hold office only until a person is elected at the next general district election and has been qualified, i.e. at the two year point of the term. The person elected at the general district election will serve the remainder of the term (i.e., the last two years of the four year term)

b) If a vacancy occurs in the **second half of the four-year term**, and the next election is less than 130 days from notice to the Board, the person may maintain the seat for the last two years of the four year term plus up to 130 days. The person appointed completes whatever remains of the term.

CALLING AN ELECTION TO FILL VACANCIES — 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. **Gov. Code § 1780 (e) (1)**

The election shall be held on the next established election date that is 130 or more days after the date the district board calls the election. **Gov. Code § 1780 (e) (2)**

Established election dates as defined by **Elections Code §1000** are:

The second Tuesday of April in each even-numbered year.

The first Tuesday after the first Monday in March of each odd-numbered year.

The first Tuesday after the first Monday in June of each year.

The first Tuesday after the first Monday in November of each year.

FAILURE TO ACT — If the vacancy is not filled by the district board by either making an appointment or calling a special 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, the following shall occur: within the next 30 days, 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 fill the vacancy by appointment or may order the district to call an election to fill the vacancy. The election shall be held on the next established election date (see previous list) that is 130 or more days after the date the city council or Board of Supervisors calls the election. **Gov. Code § 1780 (f) (1)**