



**TULARE COUNTY  
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# **Guide to Filling a Vacancy For County, Schools, Special Districts, Federal & State Offices, Judicial Offices and Party Central Committees**

*This guide was developed in an effort to provide answers to questions frequently asked the Tulare County Elections Department and the County Board of Supervisors concerning filling vacancies in local offices. In case of conflict, the law, regulation or rule will apply. Persons using this guide must bear full responsibility to make their own determinations as to all legal standards and duties. For information on vacancies in city offices, please contact your City Clerk.*



# TABLE OF CONTENTS

<b>VACANCIES – DEFINITION .....</b>	<b>3</b>
<b>VACANCIES IN COUNTY OFFICES .....</b>	<b>4</b>
Member, Board of Supervisors (in a General Law County) .....	4
County Offices .....	4
Terms of County Offices.....	4
<b>VACANCIES ON SCHOOL DISTRICT GOVERNING BOARDS .....</b>	<b>5-9</b>
What Causes a Vacancy .....	5
Action Required by the Governing Board.....	5
Election Ordered .....	5
Provisional Appointment .....	6
Public Notice .....	6
Contents of Public Notice.....	6
Petition Calling for a Special Election .....	6
Signature Requirements .....	6
Petition Requirements.....	7
Who Can Sign Petition.....	7
Petition Circulator .....	8
Filing the Petition.....	8
Term of Office.....	9
<b>VACANCIES ON ELECTED SPECIAL DISTRICT BOARDS .....</b>	<b>10-11</b>
Action Required by the Governing Board.....	10
Appointments to Fill Vacancies .....	10
Elections to Fill Vacancies .....	10
If the District Board Fails to Act .....	11
If the District Board Lacks a Quorum to Act within 60 Days.....	11
If the City Council or Board of Supervisors Fails to Act.....	11
Term of Office.....	11
<b>OTHER DISTRICTS NOT COVERED BY GOVT. CODE §1780 .....</b>	<b>12</b>
Municipal Utility Districts .....	12
Irrigation Districts with 500,000 or more acres .....	12
<b>FEDERAL, STATE &amp; JUDICIAL OFFICES .....</b>	<b>13-15</b>
President of the United States .....	13
United States Senator.....	13
Congressional and Legislative Offices .....	13
Governor.....	14
Other State Constitutional Offices .....	14
Supreme and Appellate Court Justices.....	15
Superior Court Judge.....	15
<b>MEMBER, PARTY CENTRAL COMMITTEE.....</b>	<b>16</b>

## **VACANCIES – DEFINITION**

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.

(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.

Government Code § 1770

# VACANCIES IN COUNTY OFFICES

## ***Member, Board of Supervisors (in a General Law County)***

Whenever a vacancy occurs in any board of supervisors, the Governor shall fill the vacancy. The appointee shall hold office until the election and qualification of his successor. (Government Code § 25060)

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 1<sup>st</sup> succeeding the election. (Government Code § 25061)

When a vacancy occurs from the failure of the person elected to file his oath or bond as provided by law, and the person elected is appointed to fill the vacancy, he shall hold office for the unexpired term. (Government Code § 25062)

## ***County Offices***

■ Assessor-Clerk/Recorder  
■ Auditor-Controller  
■ District Attorney

■ Sheriff-Coroner  
■ Treasurer-Tax Collector

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 1<sup>st</sup> succeeding the next general election. (Government Code § 25304)

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 is declared.

The person elected shall serve for the remainder of the term, which began on the first Monday after January 1 immediately preceding the election. (Government Code § 25304.5)

## ***Terms of County Offices***

County offices are up for election every four years at the Gubernatorial Primary and General Elections.

While the law for filing vacancies in county offices does not specifically call for a primary and run-off election should no candidate receive more than 50% of the vote, the decision in past vacancies has been to conduct the vacancy election as we would a regular election with a primary and general run-off election if needed as indicated by Elections Code § 8000 and 8140.

A regularly scheduled election for the county is held in June (Primary) and November (General) of even-numbered years.

# VACANCIES ON SCHOOL DISTRICT GOVERNING BOARDS

## ***What Causes a Vacancy***

Vacancies on school district governing boards or community college district boards are caused by any of the events specified in Section 1770 of the Government Code (see Vacancies – Definition), or by a failure to elect. A vacancy resulting from resignation occurs when the written resignation is filed with the County Superintendent of Schools having jurisdiction over the district. A deferred effective date not to exceed 60 days may be specified by the incumbent, in which case, the resignation becomes effective on that date. Upon begin filed with the County Superintendent of Schools, the written resignation is **irrevocable**. (Education Code § 5090 5091(a))

## ***Action Required by the Governing Board***

- a) 1. If a vacancy occurs, or if a resignation has been filed with the county superintendent of schools containing a deferred effective date, the school district or community college district governing board shall, within 60 days of the vacancy or the filing of the deferred resignation, either order an election or make a provisional appointment to fill the vacancy. A governing board member may not defer the effective date of his or her resignation for more than 60 days after he or she files the resignation with the county superintendent of schools.
2. In the event that a governing board fails to make a provisional appointment or order an election within the prescribed 60-day period as required by this section, the county superintendent of schools shall order an election to fill the vacancy.  
Education Code 5091

Although not required by law, as a matter of practice, a copy of the resignation, and copies of any notices, appointments, resolutions calling election, etc. should be sent to the Tulare County Elections Department as soon as possible.

## ***Election Ordered***

When an election is ordered, it shall be held on the next regular election date not less than 130 days after the occurrence of the vacancy or after the written resignation is filed with the County Superintendent of Schools. (Education Code § 5091(b))

The established election dates are as follows:

- a) The second Tuesday of April in each even-numbered year.
- b) The first Tuesday after the first Monday in March of each odd-numbered year.
- c) The first Tuesday after the first Monday in June of each year.
- d) The first Tuesday after the first Monday in November of each year.

(Elections Code § 1000)

### ***Provisional Appointment***

A provisional appointment made pursuant to subdivision (a) confers all powers and duties of a governing board member upon the appointee immediately following his or her appointment (Education Code §5091(d))

### ***Public Notice***

Whenever a provisional appointment is made to the governing board of a school district pursuant to Section 5091, the board shall, within 10 days of the provisional appointment of a person to fill a vacancy which occurs or will occur, post notices of both the actual vacancy or the filing of a deferred resignation and also the provisional appointment in three public places in the district and shall publish a notice pursuant to Section 6061 of the Government Code. If there is no newspaper of general circulation published in the district, notice need not be published.

(Education Code § 5092)

A copy of the notice should be sent to the Tulare County Elections Department.

### ***Contents of Public Notice***

The notice shall state the fact of the vacancy or resignation and the date of the occurrence of the vacancy or the date of the filing of, and the effective date of, the resignation. The notice shall also contain the full name of the provisional appointee to the board and the date of his appointment, and a statement that unless a petition calling for a special election, containing a sufficient number of signatures, is filed in the office of county superintendent of schools within 30 days of the date of the provisional appointment, it shall become an effective appointment.

(Education Code § 5092)

### ***Petition Calling for a Special Election***

If a provisional appointment is made within the 60-day period, the registered voters of the district may, within 30 days from the date of the appointment, petition for the conduct of a special election to fill the vacancy.

### **Signature Requirements:**

1. If a provisional appointment is made within the 60-day period, the registered voters of the district may, within 30 days from the date of the appointment, petition for the conduct of a special election to fill the vacancy. A petition shall be deemed to bear a sufficient number of signatures if signed by at least the number of registered voters of the district equal to 1<sup>1</sup>/<sub>2</sub> percent of the number of registered voters of the district at the time of the last regular election for governing board members, or 25 registered voters, whichever is greater. However, in districts with less than 2,000 registered voters, a petition shall be deemed to bear a sufficient number of signatures if signed by at least 5 percent of the number of registered voters of the district at the time of the last regular election for governing board members.
2. The petition shall be submitted to the county superintendent of schools having jurisdiction who shall have 30 days to verify the signatures. If the petition is

determined to be legally sufficient by the county superintendent of schools, the provisional appointment is terminated, and the county superintendent of schools shall order a special election to be conducted no later than the 130th day after the determination. However, if an established election date, as defined in Section 1000 of the Elections Code, occurs between the 130th day and the 150th day following the order of the election, the county superintendent of schools may order the special election to be conducted on the established election date.

(Education Code §5091(c))

**Petition Requirements:**

If a petition calling for a special election is circulated, the petition shall meet all of the following requirements:

- A. The petition shall contain the estimate of the elections official of the cost of conducting the special election.
- B. The name and residence address of at least one, but not more than five, of the proponents of the petition shall appear on the petition, each of which proponents shall be a registered voter of the school district or community college district, as applicable.
- C. None of the text or other language of the petition shall appear in less than six-point type.
- D. The petition shall be prepared and circulated in conformity with Sections 100 and 104 of the Elections Code.

(Education Code §5091(f))

**Who Can Sign Petition:**

- a) Notwithstanding any other provision of law, whenever an initiative, referendum, recall, nominating petition or paper, or any other petition or paper, is required to be signed by voters of a county, city, school district, or special district subject to petitioning, only a person who is an eligible registered voter at the time of signing the petition or paper is entitled to sign the petition or paper. A person who submits his or her affidavit of registration pursuant to subdivision (d) of Section 2102 is not eligible to sign a petition or paper unless at the time of the signing of the petition or paper he or she is 18 years of age.
- b) A signer shall at the time of signing the petition or paper personally affix his or her signature, printed name, and place of residence, including the street and number of the place of residence, and if no street or number for the place of residence exists, then a designation of the place of residence that will enable the location to be readily ascertained. An incomplete or inaccurate apartment or unit number in the signer's residence address shall not invalidate his or her signature pursuant to Section 105. A space at least one inch wide shall be left blank after each name for the use of the elections official in verifying the petition or paper.
- (c) The part of a petition for the signatures, printed names, and residence addresses of the voters and for the blank spaces for verification purposes shall be numbered consecutively commencing with the number one and continuing through the number of signature spaces allotted to each section. The petition format shall be substantially in the following form:

1.	(Print Name)	(Residence Address ONLY)	
	(Signature)	(City)	
2.	(Print Name)	(Residence Address ONLY)	
	(Signature)	(City)	

(Elections Code §100)

**Petition Circulator:**

Wherever any petition or paper is submitted to the elections official, each section of the petition or paper shall have attached to it a declaration signed by the circulator of the petition or paper, setting forth, in the circulator’s own hand, the following:

- 1) The printed name of the circulator.
- 2) The residence address of the circulator, giving street and number, or if no street or number exists, adequate designation of residence so that the location may be readily ascertained.
- 3) The dates between which all the signatures to the petition or paper were obtained.

Each declaration submitted pursuant to this section shall also set forth the following:

- 1) That the circulator circulated that section and witnessed the appended signatures being written.
- 2) That according to the best information and belief of the circulator, each signature is the genuine signature of the person whose name it purports to be.
- 3) That the circulator is 18 years of age or older.

The circulator shall certify the content of the declaration as to its truth and correctness, under penalty of perjury under the laws of the State of California, with the signature of his or her name. The circulator shall state the date and the place of execution on the declaration immediately preceding his or her signature.

(Elections Code § 104)

***Filing the Petition***

The petition must be filed with the County Superintendent of Schools within the 30-day period following the making of the provisional appointment.

The County Superintendent of Schools then has 30 days to verify signatures. (Since there is no mention of excluding weekend days and holidays, the 30-day reference is 30 calendar days).

As a matter of practice, the Superintendent forwards the petitions to the Tulare County Elections Department for checking signatures. The Superintendent may decide if the petition is to be checked using a random sampling in accordance with Elections Code §9115 or to check 100 percent of the signatures. A certificate of the results of the petition checking will be forwarded to the County Superintendent of Schools.

If the petition is determined to be legally sufficient by the County Superintendent of Schools, the provisional appointment is terminated, and the County Superintendent of Schools shall call a special election to be conducted no later than the 120<sup>th</sup> day after the determination. However, if a regular election date, as defined in Section 1000 of the Elections Code, occurs between the 120<sup>th</sup> day and the 150<sup>th</sup> day following the determination, the County Superintendent of Schools may call the special election to be conducted on the regular election date.

If any of the legal requirements are not met as to any petition calling for a special election, the County Superintendent of Schools shall not verify the signatures, nor shall any further action be taken with respect to the petition.

No person shall permit the list of names on petition prescribed by this section to be used for any purpose other than qualification of the petition for the purpose of holding an election pursuant to this section.

The petition filed with the County Superintendent of Schools is not a public record and may not be open to public inspection. The proponents, however, may have access to the petition if it is found to be insufficient. (Gov. Code § 6253.5) (Education Code § 5091(c) & (f))

### ***Term of Office***

A person appointed to fill a vacancy shall hold office only until the next regularly scheduled election for district governing board members, whereupon an election shall be held to fill the vacancy for the remainder of the unexpired term.

A person elected at an election to fill the vacancy shall hold office for the remainder of the term. (Education Code § 5091(e))

A person elected at a regular biennial governing board member election shall hold office for a term of four years commencing on the first Friday in December following his or her election in November. (Education Code § 5017)

# VACANCIES ON ELECTED SPECIAL DISTRICT BOARDS

## ***Action Required by the Governing Board***

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.

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

1. By appointment, or
2. By calling a special election

(Government Code § 1780 (c))

## ***Appointments to Fill Vacancies***

If the district 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. **(See Attachments A & B for sample notice and Application to Serve on Board)**

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

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. (Government Code § 1780 (d) (1))

## ***Elections 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?

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. (Government Code § 1780 (e) (1))

A regular election as defined by Elections Code § 1000 is:

- a) The second Tuesday of April in each even-numbered year.
- b) The first Tuesday after the first Monday in March of each odd-numbered year.
- c) The first Tuesday after the first Monday in June of each year.
- d) The first Tuesday after the first Monday in November of each year.

### ***If the District Board Fails 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.

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.

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. (Government Code § 1780(b)(f)(1))

### ***If the District Board Lacks a Quorum to Act Within 60 Days***

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.

Again, 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 (see previous list) that is 130 or more days after the date the district board calls the election.

The Board of Supervisors or the City Council shall only fill enough vacancies to provide the board with a quorum. (Government 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, 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. (Government Code § 1780 (g)(1))

The election shall be held on the next established election (see previous list) that is 130 or more days after the date the district board calls the election. (Government Code § 1780(c))

### ***Term of Office***

**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. (Government Code 1780 (d)(3))

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

**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 and shall serve for four years. (Elections Code § 10554, 10507)

## **OTHER DISTRICTS NOT COVERED BY GOVT. CODE §1780**

Government Code § 1781 specifically exempts certain districts from its provisions to fill vacancies in § 1780. The Education Code governs school districts (see separate Guidebook Procedures for Filling Governing Board Vacancies available from the Tulare County Office of Education). Other districts not covered by Government Code § 1780 are detailed below.

### ***Municipal Utility Districts***

Municipal Utility Districts organized pursuant to Division 6 (commencing with Section 11501) of the Public Utilities Code follow §11865 in the Public Utility Code to fill vacancies on their board.

The remaining board members may fill the vacancy by appointment until the next district general election that is scheduled 90 or more days after the effective date of the vacancy.

The appointment shall be made within a period of 60 days immediately subsequent to the effective date of such vacancy. A notice of such vacancy shall be posted in three or more conspicuous places in the district at least 15 days before the appointment is made.

In lieu of making an appointment, the remaining members of the board may within 60 days of the vacancy call a special election to fill the vacancy. The person elected at such special election shall hold office for the remainder of the term in which the vacancy occurred.

If the vacancy is not filled by appointment as provided in subdivision (a), or if the board has not called for an election within 60 days of the vacancy, 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 within 90 days of the effective date of the vacancy or may order the district to call a special election to fill the vacancy.

If within 90 days of the effective date of the vacancy, the remaining members of the board or the appropriate Board of Supervisors have not filled the vacancy by appointment and no election has been called for, the district shall call a special election to fill the vacancy.

A person elected at an election to fill a position to which an appointment was made pursuant to this section shall take office immediately upon issuance of the certificate of election by the secretary of the district, after qualifying according to law, and shall hold office for the remainder of the term in which the vacancy occurs.

### ***Irrigation Districts with 500,000 or more acres***

Irrigation Districts with 500,000 or more acres subject to the provisions of Chapter 5 (commencing with Section 22825) of Part 5 of Division 11 of the Water Code follow §22849 of the Water Code to fill vacancies on their board.

The Board of Supervisors of the office county shall fill by appointment vacancies in the offices of directors, provided that any such appointed directors shall be required to run for election in the next succeeding general district election.

If within 60 days after a vacancy on the board of directors occurs the board of supervisors has failed to fill such vacancy, a special election may be called by the board of directors and held in the division affected, for the purpose of filling such vacancy. In the event there are more than two candidates at such special election, only a plurality will be required for election. The candidate elected at such special election shall fill the unexpired term of the vacating director.

# **FEDERAL, STATE & JUDICIAL OFFICES**

## ***President of the United States***

In case of the removal of the President from office or of his death or resignation, the Vice President shall become President.

Whenever there is a vacancy in the office of the Vice President, the President shall nominate a Vice President who shall take office upon confirmation by a majority of both Houses of Congress. (See the U.S. Constitution, Amendment XXV for more provisions.)

## ***United States Senator***

If a vacancy occurs in the representation of this state in the Senate of the United States, the Governor may appoint and commission an elector of this state who possesses the qualifications for the office to fill the vacancy until his or her successor is elected and qualifies and is admitted to his or her seat by the United States Senate. However, whenever a vacancy occurs within a term fixed by law to expire on the third day of January following the next general election, the person so appointed shall hold office for the remainder of the unexpired term unless the vacancy is filled at a special election held prior to the general election, in which case the person elected at the special election shall hold office for the remainder of the unexpired term. An election to fill a vacancy in the term of a United States Senator shall be held at the general election next succeeding the occurrence of the vacancy or at any special election. (Elections Code § 10720)

## ***Congressional and Legislative Offices***

**Governor's Proclamation:** The governor shall call all statewide special elections by issuing a proclamation pursuant to Elections code § 12000. In the case of a vacancy in a congressional or legislative office the Governor shall issue a proclamation, within 14 calendar days of the occurrence to the vacancy, calling a special election to fill the vacancy. A copy of the proclamation shall be sent to the Board of Supervisors of every affected county. (Elections Code § 10700)

**Vacancies Occurring After the Close of Nomination:** When a vacancy occurs in a congressional office after the close of nomination period in the final year of the term of office, the Governor may decline to issue an election proclamation at his discretion.

When a vacancy occurs in a legislative office after the close of the nomination period in the final year of the term of office, no special election shall be held. (Elections Code § 10701)

**Time to Call Election:** A special election to fill a vacancy in the office of Representative in Congress, State Senator, or Member of the Assembly shall be conducted on a Tuesday at least 126 days, but not more than 140 days, following the issuance of an election proclamation by the Governor pursuant to Section 1773 of the Government Code, except that the special election may be conducted within 180 days following the proclamation in order that the election or the primary election may be consolidated with the next regularly scheduled statewide election or local election occurring wholly or partially within the same territory in which the vacancy exists, provided that the voters eligible to vote in the local election comprise at least 50 percent of all the voters eligible to vote on the vacancy.

(b) Except as provided in Chapter 3 (commencing with Section 10730), a special election or a primary election may not be conducted on the day after a state holiday.

(c) (1) A special election described in this section may be conducted as an all-mailed ballot election pursuant to Section 4000.5.

(2) This subdivision shall remain in effect only until January 1, 2020, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2020, deletes or extends that date. (EC 10703)

**Nominations:** Candidates at the primary election shall be nominated in the manner set forth in Chapter 1 (commencing with Section 8000) of Part 1 of Division 8, except that nomination papers shall not be circulated more than 73 days before the primary election, shall be left with the county elections official for examination not less than 53 days before the primary election, and shall be filed with the Secretary of State not less than 53 days before the primary election.

**Ballot Layout:** (a) All candidates shall be listed on one ballot and, except as provided in subdivision (b), if any candidate receives a majority of all votes cast, he or she shall be declared elected, and no special general election shall be held.

(b) If only one candidate qualifies to have his or her name printed on the special general election ballot, that candidate shall be declared elected, and no special general election shall be held.

(Elections Code § 10705)

**General, Run-Off Ballot:** If no candidate receives a majority of votes cast, the names of the candidates who receive the highest or second highest number of votes cast at the special primary election shall be placed on the special general election ballot. In the case of a tie vote, subdivision (b) of Section 8142 shall apply. (Elections Code § 10706)

**Order of Contest on Ballot:** Whenever a special general election, or a special primary election, to fill a vacancy in Congress or the State Legislature is consolidated with a statewide election, the candidates to fill the vacancy shall appear on the consolidated ballot immediately preceding the candidates for that same seat in Congress or the seat in the Legislature that most nearly encompasses the same geographical area at the statewide election, or the elections official at his or her option may print a separate and distinct ballot. (Elections Code § 10707)

## ***Governor***

The Lieutenant Governor shall become Governor when a vacancy occurs in the office of Governor.

The Lieutenant Governor shall act as Governor during the impeachment, absence from the State, or other temporary disability of the Governor or of a Governor-elect who fails to take office. (CA Const., Article V, Section 10)

## ***Other State Constitutional Offices***

Whenever there is a vacancy in the office of the Superintendent of Public Instruction, the Lieutenant Governor, Secretary of State, Controller, Treasurer, or Attorney General, or on the State Board of Equalization, the Governor shall nominate a person to fill the vacancy who shall take office upon confirmation by a majority of the membership of the Senate and a majority of the membership of the Assembly and who shall hold office for the balance of the unexpired term.

In the event the nominee is neither confirmed nor refused confirmation by both the Senate and the Assembly within 90 days of the submission of the nomination, the nominee shall take office as if he or she had been confirmed by a majority of the Senate and Assembly; provided, that if such 90-day period ends during a recess of the Legislature, the period shall be extended until the sixth day following the day on which the Legislature reconvenes. (CA Const., Article V, Section 10)

Proposition 103, an initiative statute passed by voters in November 1988, established the office of the State Insurance Commissioner. While the Insurance Code § 12900 provides how the person is elected, there are no provisions for filling a vacancy in this office.

In June 2000, the elected incumbent resigned from the office, and Harry Low filled the vacancy in the same manner as outlined above for the other state constitutional offices.

### ***Supreme and Appellate Court Justices***

Within 30 days before August 16 preceding the expiration of the judge's term, a judge of the Supreme Court or a court of appeal may file a declaration of candidacy to succeed to the office presently held by a judge. If the declaration is not filed, the Governor before September 16 shall nominate a candidate. At the next general election, only the candidate so declared or nominated may appear on the ballot, which shall present the question whether the candidate shall be elected. The candidate shall be elected upon receiving a majority of the voters on the question. A candidate not elected may not be appointed to that court but later may be nominated and elected.

The Governor shall fill vacancies in the Supreme and Appellate courts by appointment. An appointee holds office until the Monday after January 1 following the first general election at which the appointee had the right to become a candidate or until an elected judge qualifies. A nomination or appointment by the Governor is effective when confirmed by the Commission on Judicial Appointments.

Electors of a county, by majority of those voting and in a manner the Legislature shall provide, may make this system of selection applicable to judges of superior courts. CA Const., Article VI, Section 16(d)

### ***Superior Court Judge***

Terms of judges of superior courts are 6 years beginning the Monday after January 1 following their election. A vacancy shall be filled by election to a full term at the next general election after the second January 1 following the vacancy, but the Governor shall appoint a person to fill the vacancy temporarily until the elected judge's term begins. CA Const., Article VI, Section 16(c)

The following opinions provide additional information on filling Superior Court vacancies.

- Department of Justice informal opinion re: Judicial Vacancies (Sept. 23, 2999)
- Legislative Counsel opinion Superior Court Vacancies (July 26, 1999)
- Judicial Council opinion Effect of Court Unification on Judicial Elections (June 28, 1999)

## **MEMBER, PARTY CENTRAL COMMITTEE**

### ***Democratic Party / Republican Party / American Independent Party***

In the event of the appointment or election to a committee of an ineligible person, or whenever any member of the committee dies, resigns or becomes incapacitated to act, or removes from the jurisdiction of the committee, or ceases to be a member of this party, a vacancy exists which shall be filled by appointment by the committee in which the ineligibility or vacancy occurs.

A committee may remove any member, other than an ex officio member if:

- The member misses more than three consecutive regularly called meetings, unless his or her absence is caused by illness or temporary absence from the county on the date of the meeting; or
- The member, during his or her term of membership affiliates with, or registers as a member of another party, who publicly advocates that the voters should not vote for the nominee of this party for any office, or who gives support or avows a preference for a candidate of another party or candidate who is opposed to a candidate nominated by this party.

The removal of residence by an elected or appointed member of a committee from the Supervisor District from which he or she has been elected or appointed a member of that committee shall constitute his or her automatic resignation from the committee. (Elections Code § 7212-7215, 7410-7413. 7657-7658)

Whenever new appointments are made to county central committees committees obtain Certificates of Appointments and Oaths of Office from the Elections Department. Signed originals are then filed with the Elections Department.