

HOW TO FILL A VACANCY For County Office



**Prepared by the
Election Information and Preparation Division**

This reference guide has been prepared in an effort to provide answers to questions frequently asked to the Election Officials 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.



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.

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 COUNTY OFFICES

VACANCY – 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. **Gov. 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 1st succeeding the election. **Gov. Code 25061**

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 25062**

VACANCY – ASSESSOR, DISTRICT ATTORNEY, SHERIFF

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. **Gov. Code 25304**

If on the first Monday after January 1st 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.

The person elected shall serve for the remainder of the term which began on the first Monday after January 1st immediately preceding the election. **Gov Code 25304.5**

TERMS OF COUNTY OFFICES

County offices are up for election every four years at the Primary and General Elections. A regular scheduled election for the county is held in March (Primary) and November (General) of even-numbered years.