

41-1202. Vacancy in legislature; precinct committeemen; appointment; definition

A. If a vacancy occurs in the legislature and the vacant seat was represented by a political party that is organized pursuant to title 16, chapter 5, article 2 and that has at least thirty elected committeemen who are from precincts that are in the legislative district and that are in the county in which the vacancy occurred, the following apply:

1. The secretary of state shall immediately notify the state party chairman of the appropriate political party of the vacancy. Within three business days after notification of the vacancy by the secretary of state, the state party chairman of the appropriate political party or the chairman's designee shall give written notice of the meeting to fill the vacancy to all elected precinct committeemen of the appropriate political party from precincts that are in the legislative district and that are in the county in which the vacancy occurred.

2. Those elected precinct committeemen shall nominate, within twenty-one days after notification of the vacancy by the secretary of state if the legislature is not in regular session or within five days if the legislature is in regular session and by a majority vote, three qualified electors to fill the vacancy who meet the requirements for service in the legislature, who belong to the same political party and who reside at the time of nomination in the same district and county as the person elected to or appointed to the office immediately before the vacancy.

3. The meeting to fill the vacancy is subject to title 38, chapter 3, article 3.1, and the state party chairman of the appropriate political party shall oversee the nominations. Fifty percent or more of the elected precinct committeemen of the district who are in the legislative district and from the county in which the vacancy occurred, or their proxies, meeting together constitutes a quorum for the purposes of this subsection. A precinct committeeman may choose to permit the use of a proxy that:

(a) Is given by the precinct committeeman to another elected precinct committeeman for the legislative district in which the vacancy occurred for use at the meeting to fill the vacancy.

(b) Only is valid for the length of the meeting for which it was given.

(c) Is attested by a notary public or two witnesses.

4. The state party chairman of the appropriate political party shall immediately forward the names of the three persons named pursuant to paragraph 2 of this subsection to the board of supervisors of the county of residence of the person elected or appointed to the office immediately before the vacancy occurred. The board of supervisors shall appoint a person from the three nominees submitted.

5. If the elected precinct committeemen of the appropriate political party fail to fill the vacancy within twenty-one days if the legislature is not in regular session or within five days if the legislature is in regular session, as provided in paragraph 2 of this subsection, the state party chairman shall immediately notify the board of supervisors of the appropriate county and the board of supervisors shall fill the vacancy as provided in subsection B of this section. The time frame for appointing a citizens panel shall run from receipt of notification from the state party chairman.

B. If a vacancy occurs in the legislature and the vacant seat was represented by a political party that is organized pursuant to title 16, chapter 5, article 2 and that has fewer than thirty elected committeemen who are from precincts that are in the legislative district and that are in the county in which the vacancy occurred or if the vacant seat was not represented by a political party that is organized pursuant to title 16, chapter 5, article 2, the following apply:

1. The secretary of state shall immediately notify the board of supervisors of the county of residence of the person elected to or appointed to the office immediately before the vacancy of the vacancy.

2. Within seven business days after notification of the vacancy by the secretary of state, the board of supervisors shall appoint a citizens panel. The citizens panel, within twenty-one days after the citizens panel is appointed if the legislature is not in regular session or within five days if the legislature is in regular session, shall submit to the board the names of three qualified electors to fill the vacancy who meet the requirements for service in the legislature and who belong to the same political party and reside at the time of nomination in the same district and county as the person elected to or appointed to the office immediately before the vacancy. If the person elected to or appointed to the office immediately before the vacancy was not registered with a political party that is organized pursuant to title 16, chapter 5, article 2, the qualified electors shall be qualified electors who are not registered with a political party that is organized pursuant to title 16, chapter 5, article 2.

3. The board of supervisors, by a majority vote of the board, shall appoint one person from the list of names submitted by the citizens panel to fill the vacancy.

C. For the purposes of this section, "appropriate political party" means the same political party of which the person who was elected to or appointed to the office was a member immediately before the vacancy occurred except that if the person vacating the office changed political party affiliation after taking office, the person who is appointed to fill the vacancy shall be of the same political party that the vacating officeholder was when the vacating officeholder was elected or appointed to that office.