

ELECTION CODE

TITLE 12. ELECTIONS TO FILL VACANCY IN OFFICE

CHAPTER 201. DETERMINATION OF AND ELECTION TO FILL VACANCY

SUBCHAPTER A. RESIGNING OR DECLINING OFFICE

Sec. 201.001. RESIGNING OR DECLINING OFFICE. (a) To be effective, a public officer's resignation or an officer-elect's declination must be in writing and signed by the officer or officer-elect and delivered to the appropriate authority for acting on the resignation or declination. The authority may not refuse to accept a resignation.

(b) If the authority to act on a resignation or declination is a body, the resignation or declination may be delivered to the presiding officer of the body or to its clerk or secretary.

(c) An officer-elect who intends to qualify for the office but desires to resign at a subsequent date may submit a resignation in the same manner as an officer who has assumed office, and the vacancy may be filled in the same manner as if the resignation had been submitted after the officer-elect assumed office.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1989, 71st Leg., ch. 1187, Sec. 1, eff. Sept. 1, 1989.

Sec. 201.002. AUTHORITY TO ACT ON RESIGNATION OR DECLINATION. Unless otherwise provided by law, the authority to act on a public officer's resignation or an officer-elect's declination is the officer or body authorized to make an appointment or order a special election to fill a vacancy in the office.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

SUBCHAPTER B. TIME VACANCY OCCURS

Sec. 201.021. TIME VACANCY OCCURS GENERALLY. For purposes of this title, a vacancy in office occurs at the time prescribed by this subchapter.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Sec. 201.022. DEATH. If an officer or officer-elect dies, a vacancy occurs on the date of death.  
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Sec. 201.023. RESIGNATION. If an officer submits a resignation, whether to be effective immediately or at a future date, a vacancy occurs on the date the resignation is accepted by the appropriate authority or on the eighth day after the date of its receipt by the authority, whichever is earlier.  
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1989, 71st Leg., ch. 1187, Sec. 2, eff. Sept. 1, 1989.

Sec. 201.024. REMOVAL. If an officer is removed from office by a court or other tribunal, a vacancy occurs on the date the judgment becomes final.  
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Sec. 201.025. ACCEPTANCE OF ANOTHER OFFICE. If an officer accepts another office and the two offices may not lawfully be held simultaneously, a vacancy in the first office occurs on the date the person qualifies for the other office.  
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Sec. 201.026. DECLARATION OF INELIGIBILITY. (a) If an officer or officer-elect is declared ineligible to hold the office by a judgment of a court or other tribunal, a vacancy occurs on the date the judgment becomes final.

(b) If an officer or officer-elect is declared ineligible to hold the office by an administrative authority, a vacancy occurs on the date the declaration is made.  
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Sec. 201.027. NEW OFFICE. If a new office is created, a vacancy occurs on the effective date of the Act of the legislature creating the office or on the date the order creating the office is adopted.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1993, 73rd Leg., ch. 728, Sec. 71, eff. Sept. 1, 1993.

Sec. 201.028. DECEASED OR INELIGIBLE CANDIDATE RECEIVING VOTE REQUIRED FOR ELECTION. If a deceased or ineligible candidate receives the vote required for election to an office, a vacancy occurs on the date the final canvass of the election is completed. Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Sec. 201.029. DECLINATION OF OFFICER-ELECT. If an officer-elect declines to qualify for the office before assuming office for the term for which elected, a vacancy in the term occurs on the date the declination is delivered to the appropriate authority. Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

#### SUBCHAPTER C. SPECIAL ELECTION TO FILL VACANCY GENERALLY

Sec. 201.051. TIME FOR ORDERING ELECTION. (a) If a vacancy in office is to be filled by special election, the election shall be ordered as soon as practicable after the vacancy occurs, subject to Subsection (b).

(b) For a vacancy to be filled by a special election to be held on the date of the general election for state and county officers, the election shall be ordered not later than the 78th day before election day.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by:

Acts 2005, 79th Leg., Ch. 1109 (H.B. 2339), Sec. 26, eff. September 1, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 39, eff. September 1, 2011.

Sec. 201.052. DATE OF ELECTION. (a) Except as otherwise provided by this code, a special election to fill a vacancy shall be held on the first authorized uniform election date occurring on or after the 46th day after the date the election is ordered.

(b) If a law outside this code authorizes the holding of the election on a date earlier than the 46th day after the date of the order, the election shall be held on the first authorized uniform election date occurring on or after the earliest date that the election could be held under that law.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1178 (S.B. 910), Sec. 18, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 84 (S.B. 1703), Sec. 27, eff. September 1, 2015.

Sec. 201.053. UNEXPIRED TERM AND FULL TERM FILLED SIMULTANEOUSLY. (a) If, after the general election for an office for which a vacancy is filled by special election but before the succeeding full term begins, a vacancy occurs in both the unexpired portion of the current term and in the succeeding full term that was filled at the general election, the special election shall be ordered to fill only the full term.

(b) If any portion of the unexpired current term remains after the date the final canvass of the special election for the full term is completed, the person elected to the full term, if eligible to hold the unexpired current term, is considered to be elected to the remainder of the unexpired current term also and is entitled to qualify and assume office for the unexpired current term and the succeeding full term immediately on receiving a certificate of election. The certificate must recite that it is for both the unexpired current term and the full term.

(c) After qualifying for the unexpired current term, the person is not required to qualify again for the full term. If a bond is required, the amount of the bond for the unexpired current term and the full term is the same as for the full term.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Renumbered from Election Code Sec. 201.054 by Acts 1991, 72nd Leg., ch. 389, Sec. 4, eff. Sept. 1, 1991.

Sec. 201.054. FILING PERIOD FOR APPLICATION FOR PLACE ON

BALLOT.

(a) Except as provided by Subsection (f), a candidate's application for a place on a special election ballot must be filed not later than:

(1) 5 p.m. of the 62nd day before election day, if election day is on or after the 70th day after the date the election is ordered; or

(2) 5 p.m. of the 40th day before election day, if election day is on or after the 46th day and before the 70th day after the date the election is ordered.

(b) If a special election is to be held as an emergency election and a law outside this code prescribes a filing deadline, that deadline applies.

(c) The election order must state the filing deadline.

(d) An application may not be filed before the election is ordered.

(e) An application filed by mail is considered to be filed at the time of its receipt by the appropriate authority.

(f) For a special election to be held on the date of the general election for state and county officers, the filing deadline is 6 p.m. of the 75th day before election day.

(g) A declaration of write-in candidacy for a special election must be filed not later than the filing deadline prescribed by this section.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.  
Renumbered from Election Code Sec. 201.055 by Acts 1991, 72nd Leg., ch. 389, Sec. 4, eff. Sept. 1, 1991.

Amended by:

Acts 2005, 79th Leg., Ch. 1109 (H.B. 2339), Sec. 27, eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. 1235 (S.B. 1970), Sec. 19, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 40, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1178 (S.B. 910), Sec. 19, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 84 (S.B. 1703), Sec. 28, eff.

September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 476 (H.B. [2323](#)), Sec. 1, eff.

September 1, 2017.