

ELECTION CODE

TITLE 12. ELECTIONS TO FILL VACANCY IN OFFICE

CHAPTER 202. VACANCY IN OFFICE OF STATE OR COUNTY GOVERNMENT

Sec. 202.001. APPLICABILITY OF CHAPTER. This chapter applies to elective offices of the state and county governments except the offices of state senator and state representative. Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Sec. 202.002. VACANCY FILLED AT GENERAL ELECTION. (a) If a vacancy occurs on or before the 74th day before the general election for state and county officers held in the next-to-last even-numbered year of a term of office, the remainder of the unexpired term shall be filled at the next general election for state and county officers, as provided by this chapter.

(b) If a vacancy occurs after the 74th day before a general election day, an election for the unexpired term may not be held at that general election. The appointment to fill the vacancy continues until the next succeeding general election and until a successor has been elected and has qualified for the office.

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

Amended by:

Acts 2005, 79th Leg., Ch. 1109 (H.B. [2339](#)), Sec. 28, eff. September 1, 2005.

Sec. 202.003. NEW OFFICE. (a) Subject to Subsection (b), an election for the first full term of an office for which no previous election has been held is governed by the same provisions as an election for the remainder of an unexpired term, and for that purpose, references in this chapter to an unexpired term include a full term in the case of those offices.

(b) If an Act of the legislature creating an office prescribes a date of creation that is later than the effective date of the Act, and if an authority authorized to create the office at an earlier date has not done so, the office shall appear on the ballot as follows:

(1) if the date of creation occurs in an even-numbered

year, the office appears on the ballot in that even-numbered year;

(2) if the date of creation occurs on or before March 1 of an odd-numbered year, the office appears on the ballot in the preceding even-numbered year; and

(3) if the date of creation occurs after March 1 of an odd-numbered year, the office appears on the ballot in the subsequent even-numbered year.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1993, 73rd Leg., ch. 728, Sec. 72, eff. Sept. 1, 1993.

Sec. 202.004. NOMINATION BY PRIMARY ELECTION. (a) A political party's nominee for an unexpired term must be nominated by primary election if:

(1) the political party is making nominations by primary election for the general election in which the vacancy is to be filled; and

(2) the vacancy occurs on or before the fifth day before the date of the regular deadline for candidates to file applications for a place on the general primary ballot.

(b) If the vacancy occurs on or before the 10th day before the date of the regular deadline for candidates to file applications for a place on the general primary ballot, an application for the unexpired term must be filed by the regular filing deadline.

(c) If the vacancy occurs after the 10th day before the date of the regular filing deadline, an application for the unexpired term must be filed not later than 6 p.m. of the fifth day after the date of the regular filing deadline.

(d) The filing fee or petition requirements for a candidate for an unexpired term are the same as for a candidate for a full term.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1986, 69th Leg., 3rd C.S., ch. 14, Sec. 28, eff. Sept. 1, 1987. Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 589 (S.B. 904), Sec. 7, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1178 (S.B. 910), Sec. 20, eff.

September 1, 2013.

Sec. 202.005. NOMINATION BY CONVENTION. A political party's nominee for an unexpired term must be nominated by the appropriate party convention if:

(1) the political party is making nominations by convention for the general election in which the vacancy is to be filled; and

(2) the vacancy occurs on or before the fourth day before the date the convention convenes.

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

Sec. 202.006. NOMINATION BY EXECUTIVE COMMITTEE. (a) A political party's state, district, county, or precinct executive committee, as appropriate for the particular office, may nominate a candidate for the unexpired term if:

(1) in the case of a party holding a primary election, the vacancy occurs after the fifth day before the date of the regular deadline for candidates to file applications for a place on the ballot for the general primary election; or

(2) in the case of a party nominating by convention, the vacancy occurs after the fourth day before the date the convention having the power to make a nomination for the office convenes.

(b) The nominating procedure for an unexpired term under this section is the same as that provided by Subchapter B, Chapter 145, for filling a vacancy in a party's nomination, to the extent that it can be made applicable.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1986, 69th Leg., 3rd C.S., ch. 14, Sec. 29, eff. Sept. 1, 1987.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 84 (S.B. 1703), Sec. 29, eff. September 1, 2015.

Sec. 202.007. FILING DEADLINE FOR APPLICATION OF INDEPENDENT CANDIDATE. (a) If a vacancy occurs after runoff primary election day, an independent candidate for the unexpired

term must file the application for a place on the ballot not later than 5 p.m. of the 30th day after the date the vacancy occurs or 5 p.m. of the 70th day before general election day, whichever is earlier.

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

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

Amended by:

Acts 2005, 79th Leg., Ch. 1109 (H.B. [2339](#)), Sec. 29, eff. September 1, 2005.