

CHAPTER 375

ELECTIONS

HOUSE BILL 08-1345

BY REPRESENTATIVE(S) Weissmann and Butcher, Garza-Hicks, Kerr A., Labuda, Looper, Todd, Gardner B., Green, Kerr J., Roberts, and Stafford;
also SENATOR(S) Tapia.

AN ACT**CONCERNING VACANCIES IN ELECTIVE OFFICES.**

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 1-12-203 (1), (2), (3), (4), and (5), Colorado Revised Statutes, are amended to read:

1-12-203. Vacancies in general assembly. (1) In the event of a vacancy in the general assembly caused by the death or resignation of a member who has been sworn into office, ~~or~~ caused by the death or resignation of a member who has been elected to a seat but who has not yet been sworn into office, OR CAUSED BY A PERSON NOT TAKING THE OATH OF OFFICE AS PROVIDED IN PARAGRAPH (b) OF SUBSECTION (3) OF THIS SECTION, the vacancy shall be filled by the appropriate vacancy committee, if any, as provided in section 1-3-103 (1) (d), of the same political party and of the same representative or senatorial district represented by the former member whose seat is vacant. If the member was affiliated with a minor political party, then the vacancy shall be filled by the vacancy committee designated in the constitution or bylaws of the minor political party. If the member was unaffiliated with a political party, then the vacancy shall be filled by the vacancy committee designated on the petition for nomination pursuant to section 1-4-802 (1) (e). The vacancy shall be filled until the next general election after the vacancy occurs, when the vacancy shall be filled by election.

(2) No vacancy committee may select a person to fill a vacancy at a meeting held pursuant to this section unless a written notice announcing the time and location of the vacancy committee meeting was mailed to each of the committee members at least ~~six~~ TEN days prior to ~~such~~ THE meeting by the chairperson of the central committee ~~which~~ THAT selected the members. Mailing of the notice is effective

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

when the notice is properly addressed and deposited in the United States mail, with first-class postage prepaid.

(3) (a) The vacancy committee, by a majority vote of its members present and voting at a meeting called for that purpose AND OPEN TO THE PUBLIC, shall select a person who possesses the constitutional qualifications for a member of the general assembly and who is affiliated with the same political party or minor political party, if any, shown on the registration books of the county clerk and recorder as the former member whose seat is vacant. No meeting shall be held until a quorum is present consisting of not less than one-half of the voting membership of the vacancy committee. No member of the vacancy committee may vote by proxy. The committee shall certify the selection to the secretary of state within ~~ten~~ THIRTY days from the date the vacancy occurs; except that, in the case of a vacancy filled pursuant to section 1-4-1002 (2.5), the committee shall certify the selection within ~~ten~~ THIRTY days after the date of the general election affected by the vacancy. If the vacancy committee fails to certify a selection within ~~ten~~ THIRTY days in accordance with the provisions of this subsection (3), the governor, within five days, shall fill the vacancy by appointing a person having the qualifications set forth in this subsection (3). The name of the person selected or appointed shall be certified to the secretary of state.

(b) No sooner than two days after receiving ~~such~~ THE certification from the vacancy committee, the secretary of state shall certify the name OF THE PERSON SELECTED OR APPOINTED to the appropriate house of the general assembly. THE OATH OF OFFICE SHALL BE ADMINISTERED TO THE PERSON WITHIN THIRTY DAYS OF THE RECEIPT OF SUCH CERTIFICATION BY THE APPROPRIATE HOUSE OR ON THE CONVENING DATE OF THE GENERAL ASSEMBLY, WHICHEVER OCCURS FIRST; EXCEPT THAT THE PRESIDENT OF THE SENATE OR THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, AS APPROPRIATE, SHALL EXTEND THE TIME TO TAKE THE OATH UPON A FINDING THAT EXTENUATING CIRCUMSTANCES PREVENTED THE PERSON FROM TAKING THE OATH WITHIN THE INITIAL THIRTY-DAY PERIOD. IN THE EVENT THE PERSON DOES NOT TAKE THE OATH OF OFFICE IN ACCORDANCE WITH THIS PARAGRAPH (b), THE OFFICE SHALL BE DEEMED VACANT AND SHALL BE FILLED BY THE APPROPRIATE VACANCY COMMITTEE PURSUANT TO THE PROVISIONS OF THIS SECTION. The person, after having qualified and taken the oath of office, shall immediately assume the duties of office and shall serve until the next convening of the general assembly following the election certification and qualification of a successor. NOTHING IN THIS SUBSECTION (3) SHALL BE CONSTRUED TO REDUCE THE NUMBER OF CONSECUTIVE TERMS THAT A PERSON APPOINTED TO FILL A VACANCY IN THE GENERAL ASSEMBLY MAY SERVE IN ACCORDANCE WITH SECTION 3 OF ARTICLE V OF THE STATE CONSTITUTION.

(4) ~~if the~~ FOR PURPOSES OF THIS SECTION, A vacancy ~~is~~ caused by the resignation of a member of the general assembly ~~and~~ OCCURS ON THE EFFECTIVE DATE OF THE MEMBER'S LETTER OF RESIGNATION TO THE CHIEF CLERK OF THE HOUSE OF REPRESENTATIVES OR THE SECRETARY OF THE SENATE. If the letter of resignation gives an effective date of resignation that is later than the date the letter of resignation is submitted, the vacancy committee may meet no more than twenty days prior to the effective date of the resignation for the purposes of nominating a person to fill the vacancy. The certification of the nominee of the vacancy committee to the secretary of state may not be made prior to the effective date of the resignation;

further, should the member of the general assembly withdraw the letter of resignation prior to the effective date, the person nominated by the vacancy committee may not be certified to the secretary of state.

(5) If the vacancy is caused by the death of a member-elect of the general assembly who has been elected to office but who has not yet been sworn in, the vacancy committee shall meet no more than ~~ten~~ THIRTY days after the death of the general assembly member-elect to fill the vacancy. The certification of the nomination of the vacancy committee to the secretary of state may be made prior to the convening of the general assembly but shall not take effect until the effective date of the vacancy, which is the first day the general assembly convenes.

SECTION 2. 1-12-206 (1), Colorado Revised Statutes, is amended, and the said 1-12-206 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

1-12-206. Vacancies in the office of county commissioner. (1) In case of a vacancy occurring in the office of county commissioner, a vacancy committee constituted as provided in this section shall, by a majority vote of ~~the quorum~~ ITS MEMBERS present AT A MEETING CALLED FOR THE PURPOSE, fill the vacancy by appointment within ten days after the occurrence of the vacancy. THE MEETING SHALL NOT BE HELD UNLESS A QUORUM IS PRESENT CONSISTING OF NOT LESS THAN ONE-HALF OF THE VOTING MEMBERS OF THE VACANCY COMMITTEE. A MEMBER OF THE VACANCY COMMITTEE MAY NOT VOTE BY PROXY. If the vacancy committee fails to fill the vacancy within ten days, the governor shall fill ~~it~~ THE VACANCY by appointment within fifteen days AFTER THE OCCURRENCE OF THE VACANCY.

(6) A VACANCY COMMITTEE MAY NOT SELECT A PERSON TO FILL A VACANCY AT A MEETING HELD PURSUANT TO THIS SECTION UNLESS A WRITTEN NOTICE ANNOUNCING THE TIME AND LOCATION OF THE VACANCY COMMITTEE MEETING IS MAILED TO EACH MEMBER OF THE VACANCY COMMITTEE AT LEAST SIX DAYS BEFORE THE MEETING BY THE CHAIRPERSON OF THE CENTRAL COMMITTEE. MAILING OF THE NOTICE IS EFFECTIVE WHEN THE NOTICE IS PROPERLY ADDRESSED AND DEPOSITED IN THE UNITED STATES MAIL WITH FIRST-CLASS POSTAGE PREPAID.

SECTION 3. 22-2-105.5 (4) (d), (6) (b), and (8), Colorado Revised Statutes, are amended to read:

22-2-105.5. State board of education - vacancies - definitions - procedure for filling. (4) (d) The vacancy committee shall certify the selection to the secretary of state within ~~ten~~ THIRTY days after the date the vacancy occurs. If the vacancy committee fails to certify a selection within ~~ten~~ THIRTY days in accordance with the provisions of this paragraph (d), the governor, within ~~fifteen~~ THIRTY-FIVE days after the vacancy occurs, shall fill the vacancy by appointing a person having the qualifications set forth in paragraph (a) of this subsection (4). The name of the person appointed by the governor shall be certified to the secretary of state. The person selected or appointed pursuant to this subsection (4), after having qualified and taken the oath of office, shall immediately assume the duties of office.

(6) (b) Within ~~ten~~ THIRTY days after being notified by the secretary of the state board of the occurrence of a vacancy, the vacancy or executive committee identified

in subsection (5) of this section shall meet, and by a majority vote of its members present and voting at a meeting called for that purpose, shall nominate no fewer than three and no more than five candidates who possess the qualifications for a member of the state board and who are affiliated with the same political party or minor political party, if any, as the vacating board member, as shown on the registration books of the county clerk and recorder. The names of the candidates nominated shall be forwarded to the secretary of the state board.

(8) If the vacancy is caused by the death of a member-elect of the state board who has been elected to office but who has not yet been sworn in, the vacancy committee identified in subsection (3) of this section or the vacancy or executive committee identified in subsection (5) of this section, whichever is applicable, shall meet within ~~ten~~ THIRTY days after the death of the state board member-elect to fill the vacancy. The certification of the nomination of the vacancy or executive committee, whichever is applicable, to the secretary of state may be made prior to the convening of the state board but shall not take effect until the effective date of the vacancy, which is the first day the state board convenes.

SECTION 4. Effective date - applicability. (1) This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution, (August 6, 2008, if adjournment sine die is on May 7, 2008); except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

(2) The provisions of this act shall apply to vacancies occurring on or after the applicable effective dates of this act.

Approved: June 2, 2008