

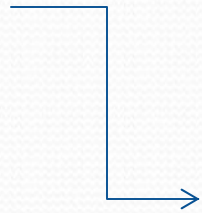
VACANCIES IN ELECTED OFFICE

Special Districts

Government 101 Workshop

October 22, 2009

**A VACANCY = AN
EMPTY SEAT**



HOW DOES VACANCY OCCUR?

- DEATH
- MENTAL INCAPACITY
- RESIGNATION
- REMOVAL FROM OFFICE
- CHANGE OF RESIDENCE
- ABSENCE FROM STATE
- FAILURE TO DISCHARGE DUTIES
- FELONY CONVICTION
- FAILURE TO TAKE OATH OR PROVIDE BOND
- ELECTION DECLARED VOID
- COURT ORDER VACATING OFFICE
- COMMITMENT TO SANITARIUM
- TERM EXPIRES AND NO ONE RUNS FOR OFFICE



EXCEPTIONS

- EXTENSIVE ILLNESS
- ACTIVATED MILITARY SERVICE
- RECALL VACANCY FILLED BY SPECIAL ELECTION

GOVERNMENT CODE SECTION

1780

- “NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A VACANCY IN ANY ELECTIVE OFFICE ON THE GOVERNMENT BOARD OF A SPECIAL DISTRICT...SHALL BE FILLED PURSUANT TO THIS SECTION.”
- Public Utilities Code, Water Code, Government Code has similar specific provisions for Public Utility Districts, Irrigation and Water Districts, Community Services District, etc.

WHEN A VACANCY HAS BEEN CONFIRMED, NOTIFY...

- COUNTY ELECTIONS OFFICIAL; AND
- CLERK OF COUNTY BOARD OF SUPERVISORS




- WITHIN 15 DAYS OF the later of:
 - THE DATE DISTRICT RECEIVED NOTICE OF VACANCY; OR
 - THE EFFECTIVE DATE OF THE VACANCY

OPTION TO FILL VACANCY

- BOARD OF DIRECTORS MAY APPOINT A NEW DIRECTOR
- BOARD OF DIRECTORS MAY WORK WITH COUNTY ELECTIONS OFFICIAL TO CALL A SPECIAL ELECTION

(WITHIN 60 DAYS OF
VACANCY)

APPOINTMENT PROCESS

- AT LEAST 15 DAYS PRIOR TO MAKING APPOINTMENT:
-  POST NOTICE OF VACANCY (3 PLACES WITHIN DISTRICT)
-  NOTIFY COUNTY ELECTIONS OFFICE OF INTENT TO FILL OFFICE BY APPOINTMENT
-  NOTIFY CLERK OF BOARD OF SUPERVISORS OF INTENT TO FILL OFFICE BY APPOINTMENT

APPOINTMENT PROCESS CONTINUED:

EITHER AT SPECIAL MEETING
OR NEXT REGULAR MEETING

AGENDA ITEM:

“RECEIVE INPUT FROM
INTERESTED CANDIDATES
THEN NOMINATE AND VOTE
TO APPOINT DIRECTOR TO FILL
VACANT SEAT _____”

- AT MEETING HEAR FROM
POTENTIAL CANDIDATES;
- NOMINATE
- VOTE
- ADMINISTER OATH OF
OFFICE

APPOINTMENT PROCESS

CONTINUED:

NOTIFY APPOINTMENT IS COMPLETE:

- ☐ SECRETARY OF STATE (WITHIN 10 DAYS)
- ☐ COUNTY ELECTIONS OFFICIAL (WITHIN 15 DAYS)
- ☐ COUNTY CLERK (WITHIN 15 DAYS)
- ☐ CLERK OF BOARD OF SUPERVISORS

HOW LONG DOES APPOINTMENT LAST?

FIRST ½ VACATED OFFICE TERM

- THE COUNTY ELECTIONS OFFICIAL NEEDS AT LEAST 130 DAYS' NOTICE TO INCLUDE A MATTER IN AN ELECTION...
- SO IF VACANCY IS FILLED 130 + DAYS PRIOR TO ELECTION, THE TERM OF THE APPOINTMENT = FROM DATE OF APPOINTMENT UNTIL NEWLY ELECTED DIRECTOR TAKES OFFICE

LAST 1/2 VACATED OFFICE TERM

- IF APPOINTMENT OCCURS IN LAST HALF OF VACATED TERM (130 DAYS +) THEN TERM OF APPOINTMENT = THE UNEXPIRED TERM OF THE VACATING DIRECTOR

SPECIAL ELECTION PROCESS

(Alternative to Appointment Process)

- PLACE ITEM ON BOARD'S AGENDA TO CONSIDER AND ADOPT A RESOLUTION CALLING SPECIAL ELECTION
- ☐ SEND RESOLUTION TO COUNTY ELECTIONS OFFICIAL (within 60 days of receipt of notice of vacancy or effective date of vacancy)
- ☐ SEND COURTESY COPY OF RESOLUTION TO COUNTY BOARD OF SUPERVISORS
- ADVERTISE VACANCY AND INVITE CANDIDATES TO OBTAIN AND FILE DECLARATIONS OF CANDIDACY FROM ELECTIONS (Board's choice – not a requirement)
- ELECTIONS OFFICE WILL ESTIMATE DISTRICT'S SHARE OF THE ELECTION COST AND REQUIRE PAYMENT FROM THE DISTRICT
- OFFICE WILL REMAIN VACANT FROM EFFECTIVE DATE OF VACANCY UNTIL THE NEXT ELECTION DATE AT LEAST 130 DAYS AWAY

BOARD OF SUPERVISOR'S POSSIBLE ROLE IN FILLING VACANCY

- IF, WITHIN 60 DAYS OF RECEIVING NOTICE OF VACANCY OR EFFECTIVE DATE OF VACANCY THE BOARD OF DIRECTORS DOES NOT ACT TO FILL THE VACANCY BY EITHER APPOINTMENT OR SPECIAL ELECTION PROCESS, then...
- THE BOARD OF SUPERVISORS HAS THE AUTHORITY TO MAKE THE APPOINTMENT OR CALL AND ELECTION; HOWEVER
- IF THE BOARD OF SUPERVISORS DOES NOT ACT WITHIN 90 DAYS OF RECEIVING NOTICE OF THE VACANCY, THEN THE BOARD OF THE DISTRICT SHALL ACT TO CALL AN ELECTION



GENERAL GUIDELINES

- Remember that these are general guidelines
- If you have any questions, you should:
 - Consult an attorney to determine whether a vacancy exists; and
 - The process that should be followed to fill the vacancy