

## **Actions to Take When a Vacancy Occurs in County Elected Offices**

There are numerous reasons that may cause an elected county office to become vacant. A vacancy occurs when an elected official either dies or resigns from office. In most cases the section of state law that provides for the duties of the office provides for the method of filling a vacancy.

### **Vacancy on County Council**

[SC Code Section 4-9-90](#) provides that a county council vacancy shall be filled by a special election if the vacancy occurs 180 days or more prior to the next general election. If the remaining term is less than 180 days, then the office remains vacant until the next general election. The Governor may use discretion in appointing a person to fill the vacancy until a replacement is elected.

There are several actions the county needs to take when a vacancy occurs on county council or in other elected offices. The county should immediately notify the county election office to determine if and when a special election will be held. See Section 7-13-190 below.

#### **SECTION 7-13-190. Special elections to fill vacancies in office.**

(A) Except as otherwise provided in this code as to specific offices, whenever a vacancy occurs in office by reason of death, resignation, or removal and the vacancy in office is one which is filled by a special election to complete the term of office, this section applies.

(B)(1) In partisan elections, whether seeking nomination by political party primary or political party convention, filing by these candidates shall open for the office at twelve o'clock noon on the third Friday after the vacancy occurs for a period to close eight days later at twelve o'clock noon. If seeking nomination by petition, the petitions must be submitted not later than twelve o'clock noon, sixty days prior to the election. Verification of these petitions must be made not later than twelve o'clock noon forty-five days prior to the election. If seeking nomination by political party primary or political party convention, filing with the appropriate official is the same as provided in [Section 7-11-15](#) and if seeking nomination by petition, filing with the appropriate official is the same as provided in [Section 7-11-70](#).

(B)(2) A primary must be held on the eleventh Tuesday after the vacancy occurs. A runoff primary must be held on the thirteenth Tuesday after the vacancy occurs. The special election must be on the twentieth Tuesday after the vacancy occurs. If the twentieth Tuesday after the vacancy occurs is no more than sixty days prior to the general election, the special election must be held on the same day as the general election. If the filing period closes on a state holiday, then filing must be held open through the succeeding weekday. If the date for an election falls on a state holiday, the election must be set for the next succeeding Tuesday. For purposes of this section, state holiday does not mean the general election day.

(C) If the office is not one for which there are partisan elections, then the filing must be opened at noon on the third Friday after the vacancy occurs for a period to close ten days later at noon. The filing must be made to the same entity to which the nonpartisan officeholders would normally file for office in a general election year. The election must be set for the thirteenth Tuesday after the vacancy occurs. Both the filing date and the election date are subject to the provisions in subsection (B) of this section regarding holidays.

(D) Provided, however, if a vacancy occurs in more than one office in the same county requiring separate special elections to be held within a period of twenty-eight days under the provisions of this section, the county board of voter registration and elections or other authority responsible for the conduct of the elections shall conduct all of the elections on the same date. The special elections must be held on the latest date required for an election during the twenty-eight-day period.

### **Vacancy of County Council Chair**

In the majority of counties, the council chair is selected by council from the current membership. In a case where the council vacancy is the person who served as chair, then the vacant council seat would be filled in the method determined under [Section 4-9-90](#). The position of chair would be filled temporarily by the vice chair and filled pursuant to the body's local rules. If the chair is a countywide elected seat, including in the County Supervisor form of government, then the vacancy is filled pursuant to [Section 4-9-90](#) for both the council and chair position. The role of chair would be temporarily filled by the vice chair during the vacancy.

### **Vacancies in All Other Elected County Offices**

[SC Code Section 4-11-20](#) provides for the filling of vacancies in all elected county offices other than county council. If the county office is one in which the term is set by the State Constitution, the Governor may appoint a person to fill the unexpired term of that office. If the term of office is not set by the Constitution, then the Governor may appoint a person to hold the office until the next general election. Filing to run for the office in either the general election or by partisan primary is the same as they would be for any general election period. See [Chapter 13 of Title 7 SC Code of Laws](#).

Some offices, such as county Treasurer and Auditor, are authorized by statute. The deputy acts in place of the vacant official's office until either the Governor appoints an interim, or a successor is elected and takes office. See [SC Code Sections 12-39-40\(B\)](#) and [12-45-35\(B\)](#).

#### **[SECTION 4-11-20](#). Filling vacancies in county offices; term of office of appointees; duties and liabilities.**

In the event of a vacancy at any time in any of the offices of any county of the state, the Governor may appoint some suitable person, who shall be an elector of the county, and,

upon duly qualifying according to law, he shall be entitled to enter upon and hold the office to which he has been appointed:

(1) If it be an elective office, until the next general election for such office if the term of such office be fixed by the State Constitution or until the next general election if the term be not so fixed, in which latter case an election shall then be held to fill the unexpired term and in either such event such person shall hold office until his successor shall qualify; and

(2) If it be an office which was filled originally by appointment, until the adjournment of the General Assembly at the regular session next after such appointment.

Any officer so appointed shall be subject to all the duties and liabilities incident to his office during the term of his service therein. Any officer elected to fill an unexpired term under the provisions of this section shall hold office for such term and until his successor shall qualify.

### **Providing Notice**

The clerk to council, or other designated county official, should notify the SC Secretary of State's Office of the vacancy. The Secretary of State will notify the Governor's Office of the vacancy. The Office to notify is:

Division of Boards and Commissions  
SC Secretary of State  
1205 Pendleton Street, Suite 525  
Columbia, SC 29201  
(803) 734-2512

<https://sos.sc.gov/services-and-filings/boards-and-commissions>

If the vacancy is due to a death, the county should also notify the SC State Ethics Commission.

SC State Ethics Commission  
201 Executive Center Drive, Suite 150  
Columbia, SC 29210  
(803) 253-4192

<https://ethics.sc.gov/about-us>

**This document is not intended to provide legal advice. Please consult your county attorney when a vacancy occurs to ensure that your county satisfies the legal requirements in filling a vacancy.**

If you have questions or need additional information, please contact the SC Association of Counties staff at (803) 252-7255, or tollfree at (800) 922-6081.