

249.002 Definitions. As used in this chapter:

- (1) "Candidate" means an individual whose name is or is expected to be printed on the official ballot.
- (2) "County clerk" means the county clerk or the county official in charge of elections.
- (3) "Elector" means an individual qualified to vote under section 2, Article II, Oregon Constitution.
- (4) "Judge" means judge of the Supreme Court, Court of Appeals, circuit court or the Oregon Tax Court, or any county judge who exercises judicial functions.
- (5) "Member" means an individual who is registered as being affiliated with the political party.
- (6) "Minor political party" means a political party that has qualified as a minor political party under ORS 248.008.
- (7) "Nonpartisan office" means the office of judge, Commissioner of the Bureau of Labor and Industries, any elected office of a metropolitan service district under ORS chapter 268, justice of the peace, county clerk, county assessor, county surveyor, county treasurer, sheriff, district attorney or any office designated nonpartisan by a home rule charter.
- (8) "Prospective petition" means the information, except signatures and other identification of petition signers, required to be contained in a completed petition.
- (9) "Public office" means any national, state, county, city or district office or position, except a political party office, filled by the electors.
- (10) "State office" means Governor, Secretary of State, State Treasurer, Attorney General, Commissioner of the Bureau of Labor and Industries, judge, state Senator, state Representative or district attorney. [1979 c.190 §94; 1983 c.350 §64; 1985 c.324 §1; 1987 c.707 §6; 1993 c.493 §5; 1995 c.92 §1; 1995 c.107 §1; 1995 c.607 §76; 2001 c.430 §1; 2009 c.491 §6; 2010 c.18 §2; 2011 c.731 §10]

Filling Vacancy in Nomination or Office**249.190 Filling vacancy in nomination of major party; rules.**

- (1) Except as provided in ORS 254.650, a vacancy in the nomination of a major political party candidate may be filled before the date of the general election by that political party in a manner prescribed by party rule.
- (2) Immediately after selecting a new nominee, the party, by the most expeditious means practicable, shall notify the filing officer with whom a declaration of candidacy for the office is filed of the name of the nominee.
- (3) If the filing officer with whom a declaration of candidacy for the office is filed determines that the candidate who has been nominated by a major political party is ineligible to be elected to the office, the officer shall declare the nomination vacant and the political party shall select another candidate to fill the vacancy in the nomination as provided under this section.
- (4) The Secretary of State by rule may adopt a schedule specifying the period following a vacancy within which a major political party must notify the filing officer of the name of the new nominee. [1979 c.190 §122; 1985 c.808 §15; 2003 c.542 §23; 2009 c.511 §6]

249.200 Nomination by major party to fill vacancy in partisan office; exceptions; rules.

- (1) A major political party may nominate a candidate to fill a vacancy in a partisan elective office in the following manner:
 - (a) If the vacancy occurs on or before the 70th day before a primary election, by selecting a nominee at the next primary election; or
 - (b) If the vacancy occurs after the 70th day before the primary election but before the 61st day before the general election, by selecting a nominee as provided by party rule.
- (2) The procedure under subsection (1) of this section shall not apply in any case in which one of the following specific procedures for filling a vacancy applies:
 - (a) The procedure specified in ORS 188.120 for the offices of Representative in Congress and United States Senator.
 - (b) The appointment procedure specified in ORS 171.051 to 171.064 for state legislative office.
 - (c) The procedure specified in ORS chapter 236 for county office.
 - (d) The procedure specified in ORS chapter 221 for city office.
- (3) A party that selects a nominee under subsection (1)(b) of this section, immediately after the nomination, shall notify the filing officer with whom a declaration of candidacy for the office is filed of the name of the nominee by the most expeditious means practicable.
- (4) The Secretary of State by rule may adopt a schedule specifying the period following a vacancy within which a major political party that selects a nominee under subsection (1)(b) of this section must notify the filing officer of the name of the nominee under subsection (3) of this section. [1979 c.190 §123; 1985 c.586 §3; 1985 c.808 §16; 1987 c.267 §22; 1987 c.380 §4; 1987 c.549 §5; 1995 c.607 §17; 1995 c.712 §31]

165-010-0070 Filling Vacancy in Nomination of Major Political Party

- (1) The purpose of this rule is to specify the period following a vacancy within which a major political party must notify the filing officer of the name of the new nominee.
 - (2) The Secretary of State hereby specifies that the deadline for notifying the filing officer of the name of the new nominee, where there is a vacancy in nomination of a major political party office from the primary election, is the 70th day before the general elections.
- Stat. Auth.: ORS 249.190
Stats. Implemented: ORS 249.190
Hist.: ELECT 17-1992(Temp), f. & cert. ef. 6-29-92; ELECT 40-1992, f. & cert. ef. 12-17-92; ELECT 14, 1994(Temp), f. & cert. ef. 7-22-94; ELECT 14-1996, f. & cert. ef. 12-19-96

249.205 Filling vacancy in nomination to nonpartisan office; nomination procedure to fill vacancy in nonpartisan office; rules.

- (1) If the only candidate nominated to a nonpartisan office dies, withdraws or becomes ineligible, or if a vacancy occurs in the nonpartisan office after the 70th day before the nominating election and on or before the 62nd day before the general election, a candidate for the office may file a declaration of candidacy in the manner provided for nonpartisan office or shall be nominated by nominating petition in the manner provided for nonpartisan office.
- (2) The Secretary of State by rule may adopt a schedule for filing nominating petitions or declarations of candidacy under this section. The schedule may specify the period within which nominating petitions or declarations of candidacy must be filed after a vacancy occurs. [Formerly 252.060; 1981 c.173 §25; 1983 c.7 §2; 1983 c.567 §8; 1985 c.808 §17]

249.215 Filling vacancy in state office at general election; remaining term of office.

- (1) If a vacancy occurs in a state office before the 61st day before the first general election to be held during that term of office, the remaining two years of the term of the state office shall be filled by the electors at that general election.
- (2) The remaining two years of the term of the state office shall commence on the second Monday in January following the general election. Any appointment made to fill the vacancy shall expire when a successor to the office is elected and qualified.
- (3) Candidates for the remaining two years of the term of the state office under this section shall be nominated as provided in this chapter except as follows:
 - (a) A major political party or a minor political party, by party rule, or an assembly of electors or individual electors, may select a nominee; and
 - (b) The Secretary of State shall accept certificates of nomination and notifications of nominees filed with the secretary pursuant to a schedule for filing set by the secretary, but in any case not later than the 62nd day before the first general election.
- (4) As used in this section, "state office" means the office of Governor, Secretary of State, State Treasurer, Attorney General and Commissioner of the Bureau of Labor and Industries. [2009 c.511 §22; 2011 c.731 §12]

Note: Section 22a, chapter 511, Oregon Laws 2009, provides:

Sec. 22a. Notwithstanding section 22 of this 2009 Act [249.215] and ORS 651.030, the term of office of the Commissioner of the Bureau of Labor and Industries elected at the general election held on the first Tuesday after the first Monday in November 2012 shall be two years. [2009 c.511 §22a]

Nomination to Nonpartisan Office**249.088 Nomination or election of candidate at nominating election.**

- (1) Except as provided in ORS 249.091, at the nominating election held on the date of the primary election:
 - (a) Unless a candidate for nonpartisan office receives a majority of the votes cast for the office, the two candidates who receive the highest number of votes are nominated.
 - (b) If a candidate for nonpartisan office receives a majority of votes cast for the office, that candidate is elected.
- (2) The application of this section is subject to the provisions of a home rule charter. [1979 c.190 §118; 1979 c.451 §5; 1979 c.587 §3; 1983 c.350 §66; 1989 c.218 §1; 1991 c.719 §7; 1993 c.493 §12; 1995 c.92 §2; 1995 c.607 §77; 1995 c.712 §27; 2011 c.607 §2]

249.091 Nomination of certain nonpartisan candidates or candidates to fill a vacancy in nonpartisan office.

(1) If a nominating petition or declaration of candidacy is filed by no more than two candidates for the office of sheriff, county treasurer or county clerk or by no more than two candidates to fill a vacancy in a nonpartisan office:

- (a) The candidate or candidates are nominated; and
- (b) The name or names of the candidate or candidates may not be printed on the ballot at the nominating election.

(2) If a nominating petition or declaration of candidacy is filed by more than two candidates for the office of sheriff, county treasurer or county clerk or by more than two candidates to fill a vacancy in a nonpartisan office:

- (a) Unless a candidate receives a majority of the votes cast for the office, the two candidates who receive the highest number of votes are nominated.
- (b) If a candidate receives a majority of the votes cast for the office, that candidate alone is nominated.

(3) The application of this section is subject to the provisions of a home rule charter. [1995 c.92 §4; 1995 c.607 §77a; 2007 c.154 §9; 2011 c.607 §3]

165-010-0110**Filling Vacancy in Nomination to Nonpartisan Office or Vacancy in Nonpartisan Office**

(1) The purpose of this rule is to specify the period within which a candidate for a nonpartisan office may file a declaration of candidacy or nominating petition. This rule applies when the only candidate nominated to a nonpartisan office dies, withdraws or becomes ineligible, or if a vacancy occurs in the nonpartisan office after the 70th day before the nominating election and on or before the 62nd day before the general election.

(2) If the vacancy in nomination or vacancy in nonpartisan office occurs between the 70th day before the nominating election and the 80th day before the general election, a declaration of candidacy or nominating petition, for nonpartisan office, may be filed no sooner than 5 business days after the vacancy occurs and no later than the 70th day before the general election.

(3) If the vacancy in nomination or vacancy in nonpartisan office occurs after the 80th day before the general election, but on or before the 62nd day before the election the deadline for filing nominating petitions or declarations of candidacy will be specified in a separate rule for that vacancy.

Stat. Auth.: ORS 246.150 & 249.205

Stats. Implemented: ORS 249.205

Hist.: ELECT 5-2004, f. & cert. ef. 6-11-04; ELECT 7-2008, f. & cert. ef. 8-12-08

171.051 Filling vacancies in Legislative Assembly.

- (1) When any vacancy occurs in the Legislative Assembly due to death or recall or by reason of resignation filed in writing with the Secretary of State or a person is declared disqualified by the house to which the person was elected, the vacancy shall be filled by appointment if:
- (a) The vacancy occurs during any session of the Legislative Assembly;
 - (b) The vacancy occurs in the office of a state Representative before the 61st day before the general election to be held during that term of office;
 - (c) The vacancy occurs in the office of a state Senator before the 61st day before the first general election to be held during that term of office;
 - (d) The vacancy occurs in the office of a state Senator at any time after the 62nd day before the first general election and before the 61st day before the second general election to be held during that term of office; or
 - (e) A special session of the Legislative Assembly will be convened before a successor to the office can be elected and qualified.
- (2) The person appointed under the provisions of subsection (1) of this section shall be a citizen qualified to hold the office, an elector of the affected legislative district and a member of the same political party for at least 180 days before the date on which the vacancy occurred. The political affiliation of a person appointed under subsection (1) of this section shall be determined under ORS 236.100. The appointment shall be made by the county courts or boards of county commissioners of the affected counties pursuant to ORS 171.060 to 171.064. When the provisions of ORS 171.060 (1) are applicable, the appointment shall be made from a list of not fewer than three nor more than five nominees who have signed written statements indicating that they are willing to serve furnished by the Secretary of State. If fewer than three names of nominees are furnished, a list shall not be considered to have been submitted and the county courts or boards of county commissioners shall fill the vacancy. The vacancy must be filled by appointment within 30 days after its occurrence or not later than the time set for the convening of the special session described in subsection (1)(e) of this section when that is the basis for filling the vacancy.
- (3) If the appointing authority required by this section to fill the vacancy does not do so within the time allowed, the Governor shall fill the vacancy by appointment within 10 days.
- (4) Notwithstanding any appointment under the provisions of subsection (1)(c) of this section, when a vacancy occurs in the office of a state Senator before the 61st day before the first general election to be held during that term of office, the remaining two years of the term of office shall be filled by the electors of the affected legislative district at the first general election.
- (5) Candidates for the remaining two years of the term of office of a state Senator under subsection (4) of this section shall be nominated as provided in ORS chapter 249 except as follows:
- (a) A major political party, minor political party, assembly of electors or individual electors may select a nominee for any vacancy occurring before the 61st day before the first general election; and
 - (b) The Secretary of State shall accept certificates of nomination and notifications of nominees selected by party rule and filed with the secretary pursuant to a schedule for filing set by the Secretary of State but in any case not later than the 62nd day before the first general election.
- (6) The remaining two years of the term of office of a state Senator under subsection (4) of this section will commence on the second Monday in January following the general election. Any appointment under the provisions of subsection (1)(c) of this section shall expire when a successor to the office is elected and qualified. [1981 c.517 §3 (enacted in lieu of 171.050)]

171.060 Procedure for filling vacancy by appointment.

(1) When any vacancy as is mentioned in ORS 171.051 exists in the office of Senator or Representative affiliated with a major political party and that vacancy is to be filled by an appointing authority as provided in ORS 171.051, the Secretary of State forthwith shall notify the person designated by the party to receive such notice. The party shall pursuant to party rule nominate not fewer than three nor more than five qualified persons to fill the vacancy. The nominating procedure shall reflect the principle of one-person, one-vote to accord voting weight in proportion to the number of party members represented. At the request of a party making a nomination, the county clerks of each county constituting the district in which the vacancy exists shall assist the party in determining the number of electors registered as members of the party in the district. A person shall not be nominated to fill the vacancy unless the person signs a written statement indicating that the person is willing to serve in the office of Senator or Representative. As soon as the nominees have been appointed, but no later than 20 days after the vacancy occurs, the party shall notify the Secretary of State of the persons nominated. The notification shall be accompanied by the signed written statement of each nominee indicating that the nominee is willing to serve in the office of Senator or Representative. The Secretary of State shall notify the county courts or boards of county commissioners of the counties constituting the district in which the vacancy exists of the nominees and of the number of votes apportioned to each member of the county courts or boards of county commissioners under ORS 171.062 and 171.064. The Secretary of State shall set a time for the meeting of the county courts or boards of county commissioners in order to fill the vacancy and by rule shall establish procedures for the conduct of the meeting. If the district is composed of more than one county, the Secretary of State shall name a temporary chairperson and designate a meeting place within the district where the county courts or boards of county commissioners shall convene for the purpose of filling the vacancy, pursuant to ORS 171.051 (2).

(2) When any vacancy as is mentioned in ORS 171.051 exists in the office of Senator or Representative not affiliated with a major political party and that vacancy is to be filled by an appointing authority as provided in ORS 171.051, the Secretary of State forthwith shall notify the county courts or boards of county commissioners of the counties constituting the district in which the vacancy occurs of the vacancy and of the number of votes apportioned to each member of the county courts or boards of county commissioners under ORS 171.062 and 171.064. The Secretary of State shall set a time for a meeting of the county courts or boards of county commissioners and by rule shall establish procedures for the conduct of the meeting. If the district is composed of more than one county, the Secretary of State shall name a temporary chairperson and designate a meeting place within the district where the county courts or boards of county commissioners shall convene for the purpose of appointing a person to fill the vacancy.

(3) A written statement signed by a majority of those qualified to vote upon the filling of any vacancy naming the person selected to fill the vacancy and directed to the Secretary of State is conclusive evidence of the filling of the vacancy by the appointing authority named therein. [Amended by 1955 c.211 §6; 1973 c.773 §2; 1975 c.779 §2; 1977 c.302 §1; 1985 c.771 §2; 1987 c.380 §2; 1989 c.207 §2; 1993 c.797 §17]

171.062 Filling vacancies in multicounty legislative districts.

(1) When a legislative district in which a vacancy occurs encompasses two or more counties, each county shall be entitled to one vote for each 1,000 of its electors or major fraction thereof residing within the legislative district at the time the vacancy occurs. However, any county having electors in the district shall be entitled to at least one vote.

(2) A major fraction of electors shall be a number greater than 500 but less than 1,000. [Formerly 248.175]

171.064 Apportioning votes for filling vacancies in multicounty legislative districts.

The number of votes apportioned to each county commissioner in filling a legislative vacancy shall be equal to the total number allotted to the respective county of the county commissioner in the manner set forth in ORS 171.062 divided by the total number of county commissioners of the respective county. [Formerly 248.180]

171.068 Procedure when vacancy filled after reapportionment.

(1) For purposes of ORS 171.060, 171.062 and 171.064, the county court or the board of county commissioners which shall fill the vacancy in the Legislative Assembly in a district created by reapportionment shall be the county court or board of county commissioners of each county any part of which is in the district that is created by the reapportionment and includes the residence from which the former Senator or Representative was elected.

(2) Each person nominated by a major political party to fill a vacancy in the Legislative Assembly occurring as described by ORS 171.051 in a district created by reapportionment must be registered to vote in the district from which the former Senator or Representative was elected and must have been a member of the same major political party at least 180 days before the date the vacancy to be filled occurred.

(3) This section shall apply only to a vacancy in the Legislative Assembly occurring after the primary election next following reapportionment and before a person has been elected and qualified to fill the vacancy. [1983 c.25 §1; 1985 c.771 §3; 1987 c.267 §62; 1987 c.380 §3; 1993 c.797 §18; 1995 c.712 §81]

165-010-0060 Procedure for Conduct of Meeting to Fill Vacancy in Legislative Assembly

The following procedures govern the conduct of a meeting of a county court or board of commissioners (hereafter, county governing body(ies)) to fill a vacancy in the Legislative Assembly These meeting procedures apply to appointments made under either ORS 171.060(1) (vacancy to be filled by nominee affiliated with a major political party) or ORS 171.060(2) (vacancy need not be filled by member of a particular major political party).

(1) A meeting of the members of the county governing body(ies) shall convene at the time designated by the Secretary of State. If the legislative district includes more than one county, the Secretary of State shall also name the temporary chairperson for the meeting and designate its location, which shall be within the legislative district. The Secretary of State shall also notify the county governing body(ies) of the nominees and of the number of votes apportioned to each member of the county governing body(ies) under ORS 171.062 and 171.064.

165-010-0060 Procedure for Conduct of Meeting to Fill Vacancy in Legislative Assembly (continued)

(2) The chairperson conducting the meeting shall open the meeting at the time designated by the Secretary of State. The chairperson shall announce that the purpose of the meeting is to appoint a person to fill the vacancy in the Legislative Assembly. If applicable, the appointment will be made from the list of nominees from the major political party as furnished by the Secretary of State.

(3) Members of the county governing body eligible to vote on the selection are those physically or electronically present at the meeting, who are currently holding office by election or appointment.

(4) The county governing body(ies), in making its determination, may allot time for interviewing nominees or applicants and for other pertinent deliberations prior to voting.

(5) The vote shall be taken in a manner specified by a majority of those present and eligible to vote on the selection. The person receiving the highest number of votes shall be the appointee. However, in any case, the vote of each member of the governing body(ies) shall be recorded and included in the written statement required by ORS 171.060(3).

(6) The Secretary of State hereby adopts form SEL 145, Statement of Nominee's Willingness to Serve, as the form to be used to accept a nomination to fill a legislative vacancy. The form shall contain:

- (a) Nominee's name;
- (b) Office and district number, if any, for which candidate would accept appointment;
- (c) Candidate's residence address;
- (d) Candidate's home and work telephone numbers;
- (e) Mailing address where all correspondence will be sent;
- (f) Statement that candidate will accept appointment; and
- (g) Candidate's signature and date signed.

188.120 Filling vacancy in election or office of U.S. Representative or Senator.

(1) If a vacancy in election or office of Representative in Congress or United States Senator occurs before the 61st day before the general election, the Governor shall call a special election to fill that vacancy. If a vacancy in election or office of United States Senator occurs after the 62nd day before the general election but on or before the general election, and if the term of that office is not regularly filled at that election, the Governor shall call a special election to fill the vacancy as soon as practicable after the general election.

(2) If a special election to fill the vacancy in election or office of Representative in Congress or United States Senator is called before the 80th day after the vacancy occurs, each major political party shall select its nominee for the office and certify the name of the nominee to the Secretary of State. The Secretary of State shall place the name of the nominee on the ballot.

(3) If a special election to fill the vacancy in election or office of Representative in Congress or United States Senator is called after the 79th day after the vacancy occurs, a special primary election shall be conducted by the Secretary of State for the purpose of nominating a candidate of each major political party. A declaration of candidacy or nominating petition may be filed not later than the 10th day following the issuance of the writ of election. [Formerly 249.654; 1985 c.586 §1; 1995 c.607 §60]