

2.32 Confirmation of appointments — procedures.

1. The governor shall either make an appointment or file a notice of deferred appointment by March 1 for the following appointments which are subject to confirmation by the senate:

- a. An appointment to fill a term beginning on May 1 of that year.
- b. An appointment to fill a vacancy, other than as provided for in paragraph “d”, existing prior to the convening of the general assembly in regular session in that year.
- c. An appointment to fill a vacancy, other than as provided for in paragraph “d”, which is known, prior to the convening of the general assembly in regular session, will occur before May 1 of that year.
- d. An appointment to fill a vacancy existing in a full-time compensated position on December 15 prior to the convening of the general assembly.

2. The governor shall file by February 1 with the secretary of the senate a list of all the appointment positions requiring gubernatorial action pursuant to subsection 1. The secretary of the senate shall provide the governor a written acknowledgment of the list within five days of its receipt. The senate shall approve the list or request corrections by resolution by February 15.

3. The governor shall submit all appointments requiring confirmation by the senate and notices of deferred appointment to the secretary of the senate who shall provide the governor’s office with receipts of submission. Each notice of appointment shall be accompanied by a statement of the appointee’s political affiliation. The notice of a deferred appointment shall be filed by the governor with the secretary of the senate and accompanied by a statement of reasons for the deferral. For appointments requiring confirmation by the senate made during the legislative interim, the notice of appointment shall be submitted to the secretary of the senate within three days of the appointment date.

4. A gubernatorial appointee, whose appointment is subject to confirmation by the senate and who serves at the pleasure of the governor, is subject to reconfirmation by the senate during the regular session of the general assembly convening in January if the appointee will complete the appointee’s fourth year in office on or before the following April 30. For the purposes of this section, the submission of an appointee for reconfirmation is deemed the same as the submission of an appointee for confirmation and the procedures of this section regarding confirmation and the consequences of refusal to confirm are the same for reconfirmation.

5. If an appointment subject to senate confirmation is required by statute to be made by an appointing authority other than the governor, the duties assigned under this section to the governor shall be performed by the appointing authority.

6. If a vacancy in a position requiring confirmation by the senate, other than a full-time compensated position, occurs after the convening of the general assembly in regular session, the governor shall, within sixty calendar days after the vacancy occurs, either make an appointment or file a notice of deferred appointment unless the general assembly has adjourned its regular session before the sixty-day period expires. If a vacancy in a full-time compensated position requiring senate confirmation occurs after December 15, the governor shall, within ninety calendar days after the vacancy occurs, make an appointment or file a notice of deferred appointment unless the general assembly has adjourned its regular session before the ninety-day period expires.

7. If an appointment is submitted pursuant to subsection 1, the senate shall by April 15 of that year either approve, disapprove, or by resolution defer consideration of confirmation of the appointment. If an appointment is submitted pursuant to subsection 6, the senate shall either approve, disapprove, or by resolution defer consideration of confirmation of the appointment within thirty days after receiving the appointment from the governor. The senate may defer consideration of an appointment until a later time during that session, but the senate shall not adjourn that session until all appointments submitted pursuant to this section before the last thirty days of the session are approved or disapproved. If a nomination is submitted during the last thirty days of the session, the senate may by resolution defer consideration of the appointment until the next regular session of the general assembly and the nomination shall be considered as though made during the legislative interim.

8. The confirmation of every appointment submitted to the senate requires the approval

of two-thirds of the members of the senate. The senate shall adopt rules governing the referral of appointments to committees, the reports of committees on appointments, and the confirmation of appointments by the senate.

9. A person whose appointment is subject to senate confirmation shall make available to the senate committee to which the appointment is referred, upon the committee's request, a notarized statement that the person has filed federal and state income tax returns for the three years immediately preceding the appointment, or a notarized statement of the legal reason for failure to file. If the appointment is to a board, commission, council, or other body empowered to take disciplinary action, all complaints and statements of charges, settlement agreements, findings of fact, and orders pertaining to any disciplinary action taken by that board, commission, council, or body in a contested case against the person whose appointment is being reviewed by the senate shall be made available to the senate committee to which the appointment is referred upon its request.

10. All tax records, complaint files, investigation files, other investigation reports, and other investigative information in the possession of the committee which relate to appointee tax filings or complaints and statements of charges, settlement agreements, findings of fact, and orders from any past disciplinary action in a contested case against the appointee are privileged and confidential and they are not subject to discovery, subpoena, or other means of legal compulsion for their release to a person other than the appointee unless otherwise provided by law.

11. Sixty days after a person's appointment has been disapproved by the senate, that person shall not serve in that position as an interim appointment or by holding over in office and the governor shall submit another appointment or file a notice of deferred appointment before the sixty-day period expires.

[C27, 31, 35, §38-b1; C39, §38.1; C46, 50, 54, 58, 62, 66, §2.40; C71, 73, 75, 77, 79, 81, §2.32]

85 Acts, ch 145, §1; 86 Acts, ch 1245, §2003; 88 Acts, ch 1128, §1; 94 Acts, ch 1184, §1; 2008 Acts, ch 1031, §73; 2009 Acts, ch 106, §1, 2, 14

2009 amendments to subsections 1 and 3 apply to legislative appointees named before, on, or after May 18, 2009, and to appointments subject to senate confirmation on or after May 18, 2009; 2009 Acts, ch 106, §14