

**69.14A Filling vacancy of elected county officer.**

1. A vacancy on the board of supervisors shall be filled by one of the following procedures:

a. By appointment by the committee of county officers designated to fill the vacancy in section 69.8.

(1) The appointment shall be for the period until the next pending election as defined in section 69.12, and shall be made within forty days after the vacancy occurs. If the committee of county officers designated to fill the vacancy chooses to proceed under this paragraph, the committee shall publish notice in the manner prescribed by section 331.305 stating that the committee intends to fill the vacancy by appointment but that the electors of the district or county, as the case may be, have the right to file a petition requiring that the vacancy be filled by special election. The committee may publish notice in advance if an elected official submits a resignation to take effect at a future date. The committee may make an appointment to fill the vacancy after the notice is published or after the vacancy occurs, whichever is later. A person appointed to an office under this subsection shall have actually resided in the county which the appointee represents sixty days prior to appointment.

(2) However, if within fourteen days after publication of the notice or within fourteen days after the appointment is made, a petition is filed with the county auditor requesting a special election to fill the vacancy, the appointment is temporary and a special election shall be called as provided in paragraph “b”. The petition shall meet the requirements of section 331.306, except that in counties where supervisors are elected under plan “three”, the number of signatures calculated according to the formula in section 331.306 shall be divided by the number of supervisor districts in the county.

b. By special election held to fill the office for the remaining balance of the unexpired term.

(1) The committee of county officers designated to fill the vacancy in section 69.8 may, on its own motion, or shall, upon receipt of a petition as provided in paragraph “a”, call for a special election to fill the vacancy in lieu of appointment. The committee shall order the special election at the earliest practicable date, but giving at least thirty-two days’ notice of the election. A special election called under this section shall be held on a Tuesday and shall not be held on the same day as a school election within the county.

(2) However, if a vacancy on the board of supervisors occurs after the date of the primary election and more than seventy-three days before the general election, a special election to fill the vacancy shall not be called by the committee or by petition. If the term of office in which the vacancy exists will expire more than seventy days after the general election, the office shall be listed on the ballot, as “For Board of Supervisors, To Fill Vacancy”. The person elected at the general election shall assume office as soon as a certificate of election is issued and the person has qualified by taking the oath of office. The person shall serve the balance of the unexpired term.

(3) If the term of office in which the vacancy exists will expire within seventy days after the general election, the person elected to the succeeding term shall also serve the balance of the unexpired term. The person elected at the general election shall assume office as soon as a certificate of election is issued and the person has qualified by taking the oath of office.

c. For a vacancy declared by the board pursuant to section 331.214, subsection 2, by special election held to fill the office if the remaining balance of the unexpired term is two and one-half years or more. The committee of county officers designated to fill the vacancy in section 69.8 shall order the special election at the earliest practicable date, but giving at least thirty-two days’ notice of the election. A special election called under this section shall be held on a Tuesday and shall not be held on the same day as a school election within the county. The office shall be listed on the ballot, as “For Board of Supervisors, To Fill Vacancy”. The person elected at the special election shall serve the balance of the unexpired term.

2. A vacancy in any of the offices listed in section 39.17 shall be filled by one of the two following procedures:

a. By appointment by the board of supervisors.

(1) The appointment shall be for the period until the next pending election as defined in section 69.12, and shall be made within forty days after the vacancy occurs. If the board of supervisors chooses to proceed under this paragraph, the board shall publish notice in

the manner prescribed by section 331.305 stating that the board intends to fill the vacancy by appointment but that the electors of the county have the right to file a petition requiring that the vacancy be filled by special election. The board may publish notice in advance if an elected official submits a resignation to take effect at a future date. The board may make an appointment to fill the vacancy after the notice is published or after the vacancy occurs, whichever is later. A person appointed to an office under this subsection, except for a county attorney, shall have actually resided in the county which the appointee represents sixty days prior to appointment. A person appointed to the office of county attorney shall be a resident of the county at the time of appointment.

(2) However, if within fourteen days after publication of the notice or within fourteen days after the appointment is made, a petition is filed with the county auditor requesting a special election to fill the vacancy, the appointment is temporary and a special election shall be called as provided in paragraph “b”. The petition shall meet the requirements of section 331.306.

b. By special election held to fill the office for the remaining balance of the unexpired term.

(1) The board of supervisors may, on its own motion, or shall, upon receipt of a petition as provided in paragraph “a”, call for a special election to fill the vacancy in lieu of appointment. The supervisors shall order the special election at the earliest practicable date, but giving at least thirty-two days’ notice of the election. A special election called under this section shall be held on a Tuesday and shall not be held on the same day as a school election within the county.

(2) If a vacancy in an elective county office occurs after the date of the primary election and more than seventy-three days before the general election, a special election to fill the vacancy shall not be called by the board of supervisors or by petition. If the term of office in which the vacancy exists will expire more than seventy days after the general election, the office shall be listed on the ballot with the name of the office and the additional description, “To Fill Vacancy”. The person elected at the general election shall assume office as soon as a certificate of election is issued and the person has qualified by taking the oath of office. The person shall serve the balance of the unexpired term.

(3) If the term of office in which the vacancy exists will expire within seventy days after the general election, the person elected to the succeeding term shall also serve the balance of the unexpired term. The person elected at the general election shall assume office as soon as a certificate of election is issued and the person has qualified by taking the oath of office.

3. Notwithstanding subsection 2, in the event of a vacancy for which no eligible candidate residing in the county comes forward for appointment, a county board of supervisors may employ a person to perform the duties of the office for at least sixty days but no more than ninety days. After ninety days, the board shall proceed under subsection 2.

4. Notwithstanding subsections 1 and 2, if a nomination has been made at the primary election for an office in which a vacancy has been filled by appointment, the office shall be filled at the next general election, and not at any special election in the same political subdivision.

89 Acts, ch 215, §4; 90 Acts, ch 1238, §33; 92 Acts, ch 1067, §2; 94 Acts, ch 1180, §38 – 40; 97 Acts, ch 170, §80 – 83; 2002 Acts, ch 1134, §80, 115; 2004 Acts, ch 1002, §1; 2006 Acts, ch 1065, §1, 2; 2008 Acts, ch 1032, §162

[P] See §43.78, subsection 4