

43.78 Filling ballot vacancies — withdrawal.

1. A vacancy on the general election ballot may be filled by the political party in whose ticket the vacancy exists, as follows:

a. For senator in the Congress of the United States or any office listed in [section 39.9](#), by the party's state convention, which may be reconvened by the state party chairperson if the vacancy occurs after the convention has been held or too late to be filled at the time it is held. However, a vacancy so occurring with respect to the offices of secretary of state, auditor of state, treasurer of state or secretary of agriculture may be filled by the party's state central committee in lieu of reconvening the state convention.

b. For representative in the Congress of the United States, by the party's congressional district convention, which may be convened or reconvened as appropriate by the state party chairperson.

c. For senator or representative in the general assembly, by the party precinct committee members whose precincts lie within the senatorial or representative district involved, who shall be convened or reconvened as appropriate by the state party chairperson. The party's state constitution or bylaws may allow the voting strength of each precinct represented at such a convention to be made proportionate to the vote cast for the party's candidate for the office in question in the respective precincts at the last general election for that office.

d. For any office to be filled by the voters of an entire county, by the party's county convention, which may be reconvened by the county party chairperson if the vacancy occurs after the convention has been held or too late to be filled at the time it is held.

e. For the office of county supervisor elected by the voters of a district within the county, by the delegates to the party's county convention who represent the precincts lying within that district, who shall be convened or reconvened as appropriate by the county party chairperson.

f. For any other partisan office filled by the voters of a subdivision of a county, by those members of the party's county central committee who represent the precincts lying within that district, who shall be convened or reconvened as appropriate by the county party chairperson. However, this paragraph shall not apply to partisan city offices in special charter cities for which candidates are nominated under [this chapter](#), but such ballot vacancies shall be filled as provided by [section 43.116](#).

2. The name of any candidate designated to fill a vacancy on the general election ballot in accordance with [subsection 1](#), paragraph "a", "b", or "c", shall be submitted in writing to the state commissioner not later than 5:00 p.m. on the seventy-sixth day before the date of the general election.

3. The name of any candidate designated to fill a vacancy on the general election ballot in accordance with [subsection 1](#), paragraph "d", "e", or "f", shall be submitted in writing to the commissioner not later than 5:00 p.m. on the sixty-ninth day before the date of the general election.

4. Political party candidates for a vacant seat in the United States house of representatives, the board of supervisors, the elected county offices, or the general assembly which is to be filled at a special election called pursuant to [section 69.14](#) or [69.14A](#) shall be nominated in the manner provided by [subsection 1](#) of [this section](#) for filling a vacancy on the general election ballot for the same office. The name of a candidate so nominated shall be submitted in writing to the appropriate commissioner, as required by [section 43.88](#), at the earliest practicable time.

5. Any candidate nominated to fill a vacancy in accordance with [this section](#) may withdraw the candidate's nomination by a written request filed as follows:

a. In the office of the state commissioner, at least seventy-four days before the date of the election.

b. In the office of the appropriate commissioner, at least sixty-four days before the date of the election.

c. In the office of the state commissioner, in case of a special election to fill vacancies in Congress or the general assembly, not more than:

(1) Twenty days after the date on which the governor issues the call for a special election to be held on at least forty days' notice.

(2) Five days after the date on which the governor issues the call for a special election to be held on at least ten but less than forty days' notice.

d. In the office of the appropriate commissioner or the state commissioner, as applicable, in case of a special election to fill vacancies, at least twenty-five days before the day of election.

[S13, §1087-a24 – 1087-a27; C24, 27, 31, 35, 39, §604 – 607, 608, 609, 611, 614, 624, 633, 636, 637; C46, 50, 54, 58, 62, 66, 71, 73, §43.76 – 43.79, 43.81, 43.82, 43.84, 43.87, 43.97, 43.101, 43.106, 43.109, 43.110; C75, §43.76 – 43.79, 43.81, 43.82, 43.84, 43.87, 43.97, 43.101, 43.109, 43.110; C77, 79, 81, §43.78]

89 Acts, ch 136, §22; 89 Acts, ch 215, §1; 90 Acts, ch 1238, §5; 2017 Acts, ch 110, §69; 2017 Acts, ch 120, §1; 2018 Acts, ch 1026, §21; 2021 Acts, ch 147, §12, 54

Referred to in §43.52, 43.65, 43.66, 43.73, 49.58, 331.254