

CHAPTER 661

VACANCIES AMONG PUBLIC OFFICERS ELECTED AT STATE ELECTIONS

General Provisions

661:1 Vacancies Generally. Any vacancy as defined in RSA 652:12 in a public office voted for at any state election shall be filled according to the provisions of this chapter.

661:2 Determination of Vacancy. The officer having the authority to make an appointment or arrange for an election to fill a vacancy in a public office shall determine whether a vacancy exists in that office; provided that the secretary of state shall determine whether a vacancy exists under the election laws among officers-elect.

661:3 Duties; Privileges. A person appointed or elected to fill a vacancy in a public office shall, during the unexpired term, perform the same duties as did his predecessor, be subject to the same requirements as was his predecessor and be entitled to the same privileges and emoluments as was his predecessor.

661:4 Qualifications. A person appointed or elected to fill a vacancy in a public office shall meet the qualifications of the office as provided in RSA 655:3-10 at the time of his election or appointment.

By Office

661:5 United States Senator. If a vacancy occurs in the office of United States senator, the governor shall fill the vacancy by temporary appointment until the next state general election, when a senator shall be elected for the unexpired term.

661:6 United States Representative. If a vacancy occurs in the office of United States representative, the governor with advice of council shall, as soon as practicable, have precepts issued to the selectmen of the towns and cities in the district where the vacancy exists directing them to call a special state general election on the day he designates to fill the vacancy. Such election shall be conducted as provided in RSA 661:11 and shall fill the vacancy for the unexpired term.

661:7 Governor. If a vacancy occurs in the office of governor, the vacancy shall be filled as provided in part II, article 49 of the state constitution.

661:8 Executive Councilor; State Senator; State Representative. I. If a vacancy occurs in the office of executive councilor or state senator, it shall be filled as provided in Part II, Articles 34 and 62 of the state constitution.

II. If a vacancy occurs in the office of state representative from a single town or ward district, the vacancy may be filled following the provisions of RSA 655:81 and RSA 655:82 in the same manner as a state general election is held. In a multi-town or multi-ward district, a vacancy in the office of state representative shall be filled following the provisions of RSA 655:81 and RSA 655:82 by a special election if the selectmen of any town or the city for any ward in said district so request of the governor or council.

III. Notwithstanding the provisions of paragraph II, if a vacancy occurs in the office of state representative in a district comprised of a city ward or wards, a request to hold the primary and special elections on the same dates as the city's biennial primary and regular elections may be submitted to the governor and council by the governing body of the city. If so requested, the governor and council shall declare the vacancy not less than 56 days prior to the date of the city's primary election. The filing period shall start on the Monday following the date on which the governor and council declare that there shall be a special election and shall end at 5:00 p.m. on the Friday of that week. The provisions of RSA 655:81, III, VI, VII, VIII, IX, X, and XI shall apply to elections held pursuant to this paragraph.

IV. Within 21 days after proof of a vacancy or a request that a vacancy be filled, the governor, in the case of an executive council vacancy, or the governor and council, in the case of any other vacancy, shall declare that there shall be a special election which shall be held as provided in RSA 655:81 and 82 or as provided in RSA 661:8, III.

V. No special election shall be held after March 15 of the second year of the biennium, as determined by RSA 655:81, I.

661:9 County Officers. I. If a vacancy for a period of one year or longer occurs in the office of county sheriff, county attorney, register of deeds, or county treasurer, the members of the county convention shall fill the vacancy for the unexpired term by majority vote. If a vacancy for a period of less than a year occurs in any such office, the members of the county convention shall, by majority vote of the county convention, vote to either fill the vacancy or to leave the office vacant.

II. (a) If a vacancy occurs in the office of a county commissioner, the members of the county convention shall fill the vacancy by majority vote until the next biennial election of county officers. If the term filled is less than the unexpired term, then notwithstanding any provisions of RSA 653:1, VI, the commissioner district filled pursuant to this paragraph shall be added to the next biennial election ballot to be chosen by the voters of the county for a 2-year term.

(b) The provisions of subparagraph (a) shall apply only where the vacancy occurred no later than 30 days preceding the printing of the ballots for the primary election.

(c) The provisions of RSA 655:32 and RSA 655:37 relating to nominations by appropriate party committees for vacancies in an office on a primary or general election ballot, respectively, shall apply to vacancies to be filled under this paragraph.

III. If any person holding a county office enumerated in paragraph I or II becomes temporarily absent or incapacitated, the county convention may, upon application of the county attorney or county commissioners, declare a temporary absence and fill the same for a limited period of time expressed in the appointment.

IV. Any officer of a county, including the register of probate, may be removed by the county convention for official misconduct. Any removal under this paragraph shall be initiated by petition of a majority of the county commissioners, of the county attorney, or of a superior court judge. No officer of a county may be removed without notice of the allegations supporting the petition for removal and an opportunity to be heard by the county convention.

661:9-a Register of Probate. If a vacancy occurs in the office of register of probate, the probate court shall appoint a commissioner to fill the vacancy for the unexpired term. If any register of probate becomes temporarily absent or incapacitated, the probate court may, in its discretion, declare a temporary absence and fill the same for a limited period of time, but in any event, not to exceed the unexpired term.

661:10 Delegate to State Party Convention. If a vacancy occurs in the office of delegate to a state party convention, the vacancy shall not be filled.

Conduct Of Special State General Elections To Fill Vacancies

661:11 Nomination and Conduct. Where a vacancy as described in this chapter is to be filled by a special state general election, nominations shall be made in accordance with RSA 655:81 and 655:82. The general election shall be conducted in as nearly as practicable the same manner as are regular state general elections except that the deadline for requesting a recount pursuant to RSA 660:1 shall be 2 days following the day of the election.