

# TITLE 22

## PUBLIC OFFICERS AND EMPLOYEES (Resignations; Removals; Vacancies; Retirement; Civil Service)

- Chapter 236. Eligibility for Office; Resignations, Removals and Vacancies  
237. Public Employees' Retirement Generally  
238. Retirement Plans for County and City Employees  
239. Retirement Plan for School District Employees  
240. Civil Service for State Employees  
241. Civil Service for County Employees  
242. Civil Service for City and School District Employees  
243. Insurance for State Employees

---

### Chapter 236

#### Eligibility for Office; Resignations, Removals and Vacancies

- |   |  |
|---|--|
| <b>VACANCIES AND ELIGIBILITY GENERALLY</b>  | 236.160 Qualification and term of interim appointees                               |
| 236.010 Causes for vacancies in office  |  |
| 236.020 Vacancy for breach of official bond   |  |
| 236.030 Persons ineligible for office because of membership in certain organizations          | <b>VACANCIES IN AND REMOVAL FROM COUNTY OFFICES</b>                                |
| <b>VACANCIES IN AND REMOVAL FROM STATE AND FEDERAL OFFICES</b>                                | 236.210 Filling vacancies in county and precinct offices                           |
| 236.110 Filling of vacancies in the state legislature   | 236.220 Deputy to fill vacancy in certain offices until person appointed qualifies |
| 236.120 Manner of filling vacancy of United States Representative                             | 236.230 Filling of vacancy in office of recorder                                   |
| 236.130 Manner of filling vacancy of United States Senator                                    | 236.240 Removal of county treasurer from office                                    |
| 236.135 Political affiliation of person appointed to fill vacancy in partisan elective office | 236.250 Removal of Clackamas County auditor; filling of vacancy                    |
| 236.140 Term, removal from, vacancy in appointive offices                                     | <b>RESIGNATIONS</b>  |
| 236.145 State board or commission members prohibited from accepting certain positions         | 236.310 Right of officers to resign  |
| 236.150 Recess appointment by Governor  | 236.320 Recipient of resignation   |
|   | <b>PENALTIES</b>   |
|   | 236.990 Penalties  |

## CROSS REFERENCES

## Eligibility to public office

Collector of public moneys ineligible until he has accounted for all moneys for which he may be liable, Const Art II, § 11  
 Dueler, Const Art II, § 9  
 Legislator not eligible for other offices during term, Const Art IV, § 30  
 Lucrative offices, holding other offices forbidden, Const Art II, § 10  
 Militia members, 396 050  
 Violator of corrupt practices statutes, 260 470  
 Impeachment, public officers not subject to, Const Art VII (A), § 6  
 Recall of public officers, Const Art II, § 18, 254 410 to 254 460  
 Supreme Court, filling vacancy in, Const Art VII (O), § 4  
 Term of office, Const Art XV, §§ 1, 2

**236.010**

Bribe to procure election forfeits office, Const Art II, § 7  
 Forfeiture of public office if candidate held position under county civil service, 241 520, 241 990  
 Leave of absence for service in Armed Forces, 408 240  
 Nonattendance of board or commission members as forfeiture of office, 182 010  
 Removal of officers for violation of corrupt practices statutes, 251 310, Ch 260

**236.110**

Legislature, filling vacancy in, Const Art IV, § 3, 171 050  
 Legislature, issuance of writs of election to fill vacancies in, Const Art V, § 17  
 Nomination for state office, filling vacancy in, 248 110, 248 130

**236.120**

Nomination for congressman, filling vacancy in, 248 120  
 Vacancy in office of United States Representative, Governor to issue writs of election to fill, U S Const Art I, § 2

**236.130**

Nomination for United States Senator, filling vacancy in, 248 110  
 Vacancy in office of United States Senator, U S Const Amend XVII, Const Art V, § 16

**236.140**

Nonattendance of board or commission members as forfeiture of office, 182 010  
 State employes subject to Civil Service Law, Ch. 240

**236.150**

Recess appointments, Const Art. V, § 16

**236.210**

Vacancies in county, township, precinct and city offices to be filled as prescribed by law, Const. Art VI, § 9

### VACANCIES AND ELIGIBILITY GENERALLY

#### 236.010 Causes for vacancies in office.

An office shall become vacant before the expiration of the term if:

(1) The incumbent dies, resigns or is removed

(2) The incumbent ceases to be an inhabitant of the district, county, town or village for which he was elected or appointed, or within which the duties of his office are required to be discharged

(3) The incumbent is convicted of an infamous crime, or any offense involving the violation of his oath

(4) The incumbent refuses or neglects to take his oath of office, or to give or renew his official bond, or to deposit such oath or bond within the time prescribed by law.

(5) The election or appointment of the incumbent is declared void by a competent tribunal

(6) The incumbent is found to be a mentally diseased person by the decision of a competent tribunal

**236.020 Vacancy for breach of official bond.** The Governor shall declare vacant the office of every officer required by law to execute an official bond whenever a judgment is obtained against such officer for a breach of the conditions of the bond

**236.030 Persons ineligible for office because of membership in certain organizations.** (1) No person who is a member of, or affiliated with, any organization which teaches the doctrine of, or advocates, the overthrow of the Government of the United States by force or violence shall be a candidate for public office or eligible for appointment to a public office

(2) The name of a person defined in subsection (1) of this section shall not be placed upon any ballot in connection with any election.

**236.040 to 236.100** [Reserved for expansion]

### VACANCIES IN AND REMOVAL FROM STATE AND FEDERAL OFFICES

**236.110 Filling of vacancies in the state legislature.** When a vacancy occurs in the office of a member of the Senate or House of Representatives and a session of the legislature is to take place before the next biennial election, the Governor shall issue a

writ of election. The writ shall be directed to the sheriff of the county or the sheriffs of the counties composing the district in which the vacancy occurs, commanding him or them to notify the judges of election in the respective county or district to hold a special election to fill the vacancy at the time appointed by the Governor

**236.120 Manner of filling vacancy of United States Representative.** Whenever a vacancy occurs in the office of Representative in Congress, the Governor shall issue his writ of election to fill such vacancy, in the manner provided in ORS 236.110.

**236.130 Manner of filling vacancy of United States Senator.** Whenever there is a vacancy in the office of Senator of the United States, the Governor shall fill the vacancy by appointment until such time as the vacancy is filled by a Senator of the United States regularly elected and qualified

**236.135 Political affiliation of person appointed to fill vacancy in partisan elective office.** Whenever a vacancy occurs in any partisan elective office in this state and is to be filled by appointment, including the office of United States Senator, no person shall be eligible for such appointment unless he is affiliated, as determined by the appropriate entry on his official election registration card, with the same political party as that by which the elected predecessor in such office was designated on the election ballot. [1953 c 473 §1]

**236.140 Term, removal from, vacancy in appointive offices.** Any person holding an appointive office in any of the offices, departments or institutions of this state, shall hold the same for an indefinite term, not exceeding four years, and shall at all times be subject to removal by the appointive power which made the appointment. The appointive power may in all cases appoint a successor.

**236.145 State board or commission members prohibited from accepting certain positions.** No person who has been appointed by the Governor to serve on a state board or commission shall accept a salaried position with such body during his tenure on, or within one year after his resignation or retirement from, such board or commission [1953 c 594 §1]

**236.150 Recess appointment by Governor.** Whenever a vacancy occurs during the recess of the legislature in any office which

the legislature is authorized to fill by election, the Governor, unless it is otherwise specially provided, may appoint some suitable person to perform the duties of such office.

**236.160 Qualification and term of interim appointees.** Any person appointed pursuant to ORS 236.150 shall, before proceeding to execute the duties assigned him, qualify in the same manner as required by law of the officer in whose place he is appointed, and he shall continue to exercise and perform the duties of the office to which he is appointed until the vacancy is regularly supplied as provided by law.

**236.170 to 236.200** [Reserved for expansion]

### VACANCIES IN AND REMOVAL FROM COUNTY OFFICES

**236.210 Filling vacancies in county and precinct offices.** When there is a vacancy in the office of county clerk, sheriff, coroner or any county or precinct office, some suitable person shall be appointed by the county court or board of county commissioners to perform the duties of the office until the vacancy is regularly supplied as provided by law. Before proceeding to execute the duties assigned him, the person appointed shall qualify in the same manner as required by law of the officer in whose place he is appointed.

**236.220 Deputy to fill vacancy in certain offices until person appointed qualifies.** (1) During the interval between the time when a vacancy occurs in either the offices of county clerk, sheriff, treasurer or auditor and the time when the person appointed by the county court or board of county commissioners to fill the vacant office qualifies therefor, the chief deputy of the affected office shall perform all the official acts and duties of such office.

(2) During the period the chief deputy serves as provided in subsection (1) of this section, he shall be deemed to continue to occupy the position of chief deputy for the purpose of determining his status and rights under the Civil Service Law and Public Employees' Retirement System, and such service shall in no respect affect his status or rights under those systems.

**236.230 Filling of vacancy in office of recorder.** In case of a vacancy in the office of recorder of conveyances it shall be filled by the county judge and county commissioners of the county by appointment of some suitable person.

**236.240 Removal of county treasurer from office.** Whenever suit has been commenced on the official bond of any delinquent treasurer, he may be removed by the county court of his county.

**236.250 Removal of Clackamas County auditor; filling of vacancy.** If at any time the county court of Clackamas County desires to remove the county auditor it may do so by filing a petition in the circuit court, stating the reasons why he should be removed. The circuit court may hear such petition in a summary manner and may either grant or deny the petition. If the circuit court grants the petition, the county court may remove the auditor and declare the office vacant. If the petition is denied by the circuit court, all proceedings shall cease and no further steps for the removal of the auditor shall be taken for a period of 90 days. There shall, in either event, be no appeal from the decision of the circuit court, and its decision shall be final. In case of removal of the auditor, the county court shall, within 10 days, appoint an auditor who shall qualify as such. Any vacancy in the office of county auditor shall be filled by the county court for the unexpired term.

**236.260 to 236.300** [Reserved for expansion]

### RESIGNATIONS

**236.310 Right of officers to resign.** Any person who receives a certificate of election as a member of the Legislative Assembly, coroner or commissioner of the county court is at liberty to resign his office, though he may not have entered upon the execution of its duties or taken the requisite oath of office.

**236.320 Recipient of resignation.** Resignation shall be made as follows:

(1) By the Secretary of State, State Treasurer and all officers elected by the legislature, to the Governor.

(2) By all officers who hold their offices by election, to the officer authorized by law

to order a special election to fill the resulting vacancy.

(3) By all other officers holding their offices by appointment, to the body, board or officer that appointed them

**236.330 to 236.980** [Reserved for expansion]

**PENALTIES**

**236.990 Penalties.** Violation of ORS 236.145 is punishable, upon conviction, by a fine not to exceed \$1,000. [1953 c.594 §2]

