

TITLE 22

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

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Chapter 236

1955 REPLACEMENT PART

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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
 Public contracts, interest in, 279.360, 279.362
 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]

236.137 Appointment to fill vacancy of district attorney. Any person who is, except for his failure to meet the political party affiliation requirement of ORS 236.135, eligible for appointment to fill a vacancy in the office of district attorney for a county may be appointed to fill such vacancy if:

(1) There is no other person residing in the county who possesses the legal qualifications for the appointment; or

(2) Each person residing in the county who possesses the legal qualifications for the appointment has refused to accept the appointment, such refusal being evidenced by a signed statement to that effect addressed to and in the possession of the Governor. [1955 c.210 §1]

236.140 Term, removal from, vacancy in appointive offices. Any person holding an appointive office in any of the offices, de-

partments 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]

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Sam R. Haley, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.
Done at Salem, Oregon,
on October 15, 1955.

Sam R. Haley
Legislative Counsel

