

Vacancy Statue and Regulation

I. Relevant authorities

Hierarchy of legal authorities:

1. *Constitution*
2. *Statutes (Government Code, Elections Code)*
3. *Regulations (Code of Regulations)*
4. *Policies*

***(Statute, emphasis added)* Government Code Sec. 8252.5 (b)(2):**

Any vacancy, whether created by removal, resignation, or absence, in the 14 commission positions that occurs on or after December 31 of a year ending in the number two **shall be filled** by the commission within the 90 days after the vacancy occurs, from the subpool of applicants of the same voter registration category as the vacating nominee that was remaining after all legislative leaders exercised their strikes pursuant to subdivision (e) of Section 8252.

***(Regulation, emphasis added)* Cal. Code of Regulations, Title 2, Div 10, Ch. 1, sec. 60863(b):**

If a vacancy occurs on the commission after it completes its redistricting function, **and the commission determines that it needs to fill the vacancy** but is unable to fill it with an applicant from the same subpool of applicants that the vacating commissioner was drawn or selected from, as it existed on July 5 of the application year, the commission shall provide written notification to the State Auditor. . . .

Cal. Constitution, article XXI, sec. 2, subdivision (c)(5):

Nine members of the commission shall constitute a quorum. Nine or more affirmative votes shall be required for any official action. . . .

II. A suggested voting procedure if the commission determines a replacement commissioner is required

1. *First round:* commissioners vote (covered ballots), two equal-weight votes per commissioner, can use both votes for one candidate; votes are announced (with commissioners' names read aloud) and tallied
2. *Second round:* commissioners vote again (covered ballots) on the top two from the first round, one vote per commissioner; votes are announced (with commissioners' names read aloud); whoever wins the second round vote by any margin goes forward in a motion to approve by 9 votes

In case of a tie in the first round: if tied for first place, only those two go to the second round; if tied for second place, all second place winners join the first place winner in the second round.

In case of a tie the second round: discuss further and take another vote, repeat if necessary.

Prepared by Commissioner Russel Yee