

204B.13 VACANCY IN NOMINATION.

Subdivision 1. **Death or withdrawal.** A vacancy in nomination may be filled in the manner provided by this section. A vacancy in nomination exists when:

(1) a major political party candidate or nonpartisan candidate who was nominated at a primary dies or files an affidavit of withdrawal as provided in section 204B.12, subdivision 2a; or

(2) a candidate for a nonpartisan office, for which one or two candidates filed, withdraws as provided in section 204B.12, subdivision 1.

Subd. 2. **Partisan office; nomination by party.** (a) A vacancy in nomination for partisan office shall be filled as provided in this subdivision. A major political party has the authority to fill a vacancy in nomination of that party's candidate by filing a nomination certificate with the same official who received the affidavits of candidacy for that office.

(b) A major political party may provide in its governing rules a procedure, including designation of an appropriate committee, to fill vacancies in nomination for all offices elected statewide. The nomination certificate shall be prepared under the direction of and executed by the chair and secretary of the political party and filed within seven days after the vacancy in nomination occurs or before the 14th day before the general election, whichever is sooner. If the vacancy in nomination occurs through the candidate's death or catastrophic illness, the nomination certificate must be filed within seven days after the vacancy in nomination occurs but no later than four days before the general election. The chair and secretary when filing the certificate shall attach an affidavit stating that the newly nominated candidate has been selected under the rules of the party and that the individuals signing the certificate and making the affidavit are the chair and secretary of the party.

Subd. 3. [Repealed, 1991 c 320 s 16]

Subd. 4. **Nonpartisan office; filling vacancy.** A vacancy in nomination in a nonpartisan office may be filled by filing an affidavit of candidacy and paying a filing fee or by filing an affidavit of candidacy and filing a petition in place of a filing fee in the manner provided in sections 204B.06, 204B.09, and 204B.11. All documents and fees required by this subdivision must be filed within five days after the vacancy in nomination occurs. There must be a two-day period for withdrawal of candidates after the last day for filing.

If the vacancy in nomination resulted from a withdrawal during the withdrawal period held on the 68th to 69th day before the primary, and if, at the end of the withdrawal period to fill the vacancy in nomination, there are more than two candidates, the candidates' names must appear on the primary ballot.

In all other cases, the candidates' names must appear on the general election ballot.

Subd. 5. **Candidates for governor and lieutenant governor.** (a) If a vacancy in nomination occurs in the race for governor, the candidate for governor determined under this section shall select the candidate for lieutenant governor. If a vacancy in nomination occurs in the race for lieutenant governor, due to a vacancy in nomination for governor or due to the withdrawal or death of the candidate for lieutenant governor, the candidate for governor shall select the candidate for lieutenant governor as provided in this subdivision.

(b) For a vacancy in nomination that occurs before the 16th day before the general election, the name of the lieutenant governor candidate must be submitted by the governor candidate to

the filing officer within seven days after the vacancy occurs, or before the 14th day before the general election, whichever is sooner. If the vacancy in nomination occurs through the death or catastrophic illness of the candidate for lieutenant governor, the candidate for governor shall submit the name of the new lieutenant governor candidate to the secretary of state within seven days after the vacancy in nomination occurs but no later than four days before the general election. If the vacancy in nomination occurs through the death or catastrophic illness of the candidate for governor, the new candidate for governor shall submit the name of the lieutenant governor candidate within seven days after the vacancy in nomination for governor is filled under section 204B.13, subdivision 2, but no later than four days before the general election.

Subd. 6. **Vacancy after deadline.** If a candidate withdraws after the 16th day before the general election but before four days before the general election, the secretary of state shall instruct the election judges to strike the name of the withdrawn candidate from the general election ballot and shall substitute no other candidate's name. Filing officers may not accept a nomination certificate for filing to fill a vacancy in nomination resulting from the filing of an affidavit of withdrawal by a candidate after the 14th day before the general election. Vacancies occurring through death or catastrophic illness after the 16th day before the general election are governed by section 204B.41.

History: 1981 c 29 art 4 s 13; 1986 c 444; 1991 c 320 s 8-12; 2011 c 65 s 2,3