

GOVERNMENT CODE

CHAPTER 304. EMERGENCY INTERIM LEGISLATIVE SUCCESSION

Sec. 304.001. SHORT TITLE. This chapter may be cited as the Emergency Interim Legislative Succession Act.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 304.002. DEFINITIONS. In this chapter:

(1) "Attack" means any action or series of actions taken by an enemy of the United States resulting in substantial damage or injury to persons or property in this state whether by sabotage, bombs, missiles, shellfire, or atomic, radiological, chemical, bacteriological, or biological means or by other weapons or methods.

(2) "Unavailable" means dead or unable for physical, mental, or legal reasons to exercise the powers and discharge the duties of a legislator, whether or not the absence or inability would give rise to a vacancy under existing constitutional or statutory provisions.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 304.004. DESIGNATION OF EMERGENCY INTERIM SUCCESSORS. (a) Each legislator shall designate not less than three nor more than seven individuals to serve as emergency interim successors if the legislator is certified to be unavailable to serve as provided by this chapter. Each individual designated must meet age and residence requirements for a senator or representative, as applicable, and must submit a written acceptance to the legislator.

(b) To be effective, a designation must include the name and address of the designee.

(c) As soon as practicable after a legislator takes the oath of office for the legislator's term, the legislator shall file a list of the legislator's designees who have accepted the designation, ranked in order of succession, together with the written acceptance of each designee, with the secretary of the senate or the chief clerk of the house of representatives, as applicable. That officer shall promptly deliver a certified copy of the list and of each acceptance to the secretary of state.

(d) At least annually, each legislator shall review the most recent list of emergency interim successors to the position held by the legislator to ensure that there are at least three qualified emergency interim successors on the list. Each legislator shall make revisions to the list as necessary and may make other revisions the legislator considers appropriate. A revision designating a new emergency interim successor must be accompanied by the written acceptance of the designee. The secretary of the senate or chief clerk of the house, as applicable, shall promptly deliver a certified copy of each revision and of any accompanying acceptance to the secretary of state.

(e) If at any time a legislator has not designated emergency interim successors as required by this section, the lieutenant governor or speaker of the house, as appropriate, may designate in order of succession not more than seven individuals to serve as emergency interim successors if that legislator becomes unavailable. Each individual designated must meet the applicable age and residence requirements and submit a written acceptance of the designation. The lieutenant governor or speaker shall file the list and the written acceptances of the designees with the secretary of the senate or the chief clerk of the house, as applicable, who shall deliver a certified copy of the list and of each acceptance to the secretary of state. At any time, the legislator in the manner provided by this section may make revisions to the list filed under this subsection or file a superseding list of designees.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 2005, 79th Leg., ch. 297, Sec. 1, eff. Sept. 1, 2005.

Sec. 304.005. WHEN DESIGNATION OR REVISION TAKES EFFECT. (a) Each designation of an emergency interim successor becomes effective when the individual making the designation files the designation and the designee's written acceptance with the appropriate senate or house officer under Section 304.004.

(b) The removal of an emergency interim successor from the list or a change in the order of succession becomes effective when an individual authorized to make the change files that information with the appropriate senate or house officer under Section 304.004.

(c) Information filed under this chapter is public information, except that the home address and home telephone number

of a designee may be disclosed only if the designee, in a signed writing filed with the secretary of the senate or chief clerk of the house of representatives, as applicable, specifically states that the information may be disclosed.

(d) A certified copy of a list of designated emergency interim successors or of a revision of a list delivered to the secretary of state under this chapter is for informational purposes only unless the lieutenant governor or speaker of the house certifies to the secretary of state that the applicable records of the senate or house have been lost or destroyed or have become unavailable in another manner, in which event the certified records delivered to the secretary of state are treated as if they are the original records.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 2005, 79th Leg., ch. 297, Sec. 2, eff. Sept. 1, 2005.

Sec. 304.006. STATUS AND QUALIFICATIONS OF EMERGENCY INTERIM SUCCESSORS. (a) An emergency interim successor is an individual who is designated for possible temporary succession to the powers and duties, but not the office, of a legislator.

(b) An individual may not be designated or serve as an emergency interim successor unless that individual is legally qualified to hold the office of the legislator to whose powers and duties the individual is designated to succeed.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 304.007. OATH. When the designation of an emergency interim successor becomes effective, the successor shall take the oath required for the legislator to whose powers and duties the successor is designated to succeed, and no other oath is required.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 304.008. ASSUMPTION OF POWERS AND DUTIES. (a) If the governor has declared an emergency due to enemy attack or the immediate threat of enemy attack under Section 62, Article III, Texas Constitution, and the lieutenant governor or speaker of the house, as applicable, determines that a legislator is unavailable to serve when the legislature has convened or will convene, the lieutenant governor or speaker, as applicable, shall certify to the secretary of state that the legislator is unavailable. If the governor has declared an emergency due to enemy attack or the immediate threat of enemy attack under Section 62, Article III, Texas Constitution, and at the time and place the legislature is scheduled to convene the lieutenant governor or speaker is absent from the applicable house, a majority of the members of that house who are present may determine that a member of that house who is not present is unavailable and certify that determination to the secretary of state.

(b) If a legislator is certified to be unavailable under Subsection (a), the secretary of state shall notify the legislator's emergency interim successor highest in order of succession who is available that the emergency interim successor is entitled to exercise the powers and duties of the legislator who is unavailable. The secretary of state shall inform the emergency interim successor of the date, time, and place at which the legislature is meeting or will meet, as soon as that is known. If the emergency interim successor declines to serve or does not appear and begin to serve within a reasonable time as determined by the lieutenant governor or speaker of the house, as applicable, the secretary of state at the request of the lieutenant governor or speaker shall notify the emergency interim successor next in order of succession who is available that the emergency interim successor is entitled to exercise the powers and duties of the legislator who is unavailable.

(c) The emergency interim successor shall exercise the powers and assume the duties of the legislator whom the individual succeeds, except that the successor may not designate emergency interim successors or make revisions to a designation.

(d) The emergency interim successor exercises those powers and assumes those duties until the secretary of state notifies the successor that the incumbent legislator, an emergency interim successor higher in order of succession for the same position, or a legislator elected to the same position and legally qualified can act.

(e) Any dispute as to the qualification of an individual to exercise the powers and assume the duties of a legislator under this chapter shall be determined by the applicable house of the legislature as provided by Section 8, Article III, Texas

Constitution.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 2005, 79th Leg., ch. 297, Sec. 3, eff. Sept. 1, 2005.

Sec. 304.009. PRIVILEGES, IMMUNITIES, AND COMPENSATION. (a) An emergency interim successor who exercises the powers and assumes the duties of an unavailable legislator is entitled to the privileges, immunities, compensation, and other allowances to which a legislator is entitled.

(b) This section does not affect the privileges, immunities, compensation, or other allowances to which an incumbent legislator is entitled.

(c) An emergency interim successor's performance of the powers and duties of an unavailable legislator does not affect the successor's entitlement to other compensation or benefits to which the successor might otherwise be entitled. Section 812.203(a) does not apply to an individual serving as an emergency interim successor under this chapter.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1989, 71st Leg., ch. 179, Sec. 2(h), eff. Sept. 1, 1989; Acts 2005, 79th Leg., ch. 297, Sec. 4, eff. Sept. 1, 2005.

Sec. 304.010. DUTY TO REMAIN INFORMED. Each emergency interim successor shall keep himself generally informed as to the duties, procedures, practices, and current business of the legislature, and each legislator shall assist his emergency interim successors to keep themselves informed.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 304.011. QUORUM; VOTES. In the event of an attack, the quorum requirements imposed on the legislature are suspended. If the affirmative vote of a specified proportion of members is required to approve a bill or resolution, the same proportion of those present and voting on the bill or resolution is sufficient for its passage.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.