

GOVERNMENT CODE  
TITLE 4. EXECUTIVE BRANCH  
SUBTITLE A. EXECUTIVE OFFICERS  
CHAPTER 401. GOVERNOR AND LIEUTENANT GOVERNOR  
SUBCHAPTER A. INAUGURATION

Sec. 401.001. INAUGURAL COMMITTEE. (a) Not later than the 10th day after the date of each election for governor and lieutenant governor, the secretary of state shall issue a proclamation stating who, in the secretary of state's opinion based on the best information then available, are the governor-elect and lieutenant governor-elect. The secretary of state shall promptly deliver certified copies of the proclamation to the individuals named in the proclamation.

(b) As soon as possible after receiving notice of the proclamation, the governor-elect and lieutenant governor-elect shall each file with the secretary of state a signed instrument. The governor-elect shall designate in that instrument one individual to serve as chairman of the inaugural committee and one individual to serve as a cochairman of the committee. The lieutenant governor-elect shall designate in that instrument one individual to serve as a cochairman of the committee. The governor-elect and lieutenant governor-elect may appoint by written instrument filed with the secretary of state other members to the inaugural committee as they consider necessary. An individual who holds a position of profit under this state or the United States is ineligible for appointment to the committee.

(c) If after issuing a proclamation under this section the secretary of state becomes aware of information that indicates that the previous designation of governor-elect or lieutenant governor-elect was incorrect, the secretary of state shall issue a corrected proclamation and deliver certified copies of it to the previous designee, the new designee, and each member of the inaugural committee appointed by the previous designee. Issuance of a corrected proclamation terminates the membership on the inaugural committee of appointees of the previous designee but does not affect an action taken by the committee before the proclamation was issued. As soon as possible after the new designee receives notice of designation as governor-elect or lieutenant governor-elect, the designee shall make the appropriate appointments under this section.

(d) A vacancy on the committee is filled by appointment by the original appointing authority according to the procedure applicable to original appointments.

(e) Designation of an individual as governor-elect or lieutenant governor-elect under this section has no legal effect except for purposes of this subchapter.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 401.002. ORGANIZATION, POWERS, AND DUTIES OF COMMITTEE. (a) As soon as possible after the members of the committee have been appointed, they shall convene at a time and place designated by the individual appointed chairman, take the constitutional oath of office, and hold an organizational meeting.

(b) The committee may hold subsequent meetings at times it determines or on the call of the chairman. The chairman presides at meetings. If the chairman is absent, one of the cochairmen presides.

(c) The committee may adopt rules to govern its proceedings.

(d) A member of the committee serves without compensation but may be reimbursed for actual and necessary expenses incurred in the performance of committee duties as provided by legislative appropriation.

(e) The committee shall make arrangements necessary for conducting ceremonies and events to observe the inauguration of the governor and lieutenant governor. The committee may employ staff or engage the services of consultants to assist in its work.

(f) The committee may request the cooperation of an agency or official of state or local government. The agency or official shall cooperate with the committee to the extent possible.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 401.003. INAUGURAL FUND. (a) The inaugural fund is a special fund in the state treasury. Money in the inaugural fund may be appropriated only for expenditures authorized by this chapter.

(b) The comptroller shall credit to the inaugural fund a pro rata share of the interest received from the deposit of state funds as if the inaugural fund were a constitutional fund.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 8.06, eff. Sept. 1, 1997.

Sec. 401.004. INAUGURAL CONTRIBUTIONS. (a) A person may contribute funds, services, or other things of value to pay the expenses of or otherwise provide for an inauguration. This contribution is not a political contribution for purposes of state law regulating political contributions or prohibiting a contribution by a corporation or labor organization.

(b) A contribution may be made to the inaugural committee or the secretary of state. If the secretary of state receives a contribution while the inaugural committee exists, the secretary of state shall deliver the contribution to the committee. If the secretary of state receives a contribution at any other time, the secretary of state shall transmit the contribution to the comptroller, who shall deposit it in the state treasury to the credit of the inaugural fund.

(c) On receipt of a contribution, the secretary of state shall execute duplicate copies of a receipt, give one copy to the contributor, and retain the other. The receipt must show:

- (1) the name and mailing address of the contributor;
- (2) the amount of the contribution;
- (3) the date of the contribution; and
- (4) that the contribution was received to pay inaugural expenses.

(d) The secretary of state shall keep the receipt on file in the office of the secretary of state for at least four years and shall maintain an index of the receipts, arranged alphabetically by contributor, showing the date of the contribution, the name and mailing address of the contributor, and the amount of each contribution. The index and receipts are public information.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 8.07, eff. Sept. 1, 1997.

Sec. 401.005. EXPENDITURES. (a) Subject to any conditions attached to a particular appropriation, money appropriated from the inaugural fund may be expended for:

- (1) printing;
- (2) the employment of staff;
- (3) the lease of office space and payment of utility expenses;
- (4) professional and consultant fees;
- (5) postage, telephone, and telegraph expenses;
- (6) payment of expenses incurred by committee members;

and

(7) any other public purpose reasonably related to conducting inaugural ceremonies and related events, including expenses of raising funds.

(b) Contributions received by the committee and not deposited in the state treasury may be expended for any purpose the committee considers appropriate.

(c) A voucher for an expenditure from the inaugural fund must be approved in writing by the chairman.

(d) Chapters 2155-2158 do not apply to the committee.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 17.193, eff. Sept. 1, 1997.

Sec. 401.006. COMPETITIVE BIDDING. The committee may not make a contract covered by the competitive bidding requirements of Article XVI, Section 21, of the Texas Constitution unless before awarding the contract the committee obtains at least three bids. The committee shall award the contract to the lowest bidder who in the opinion of the committee is most responsible and is best able to fulfill the terms of the contract. The committee may reject all bids if none in the opinion of the committee is responsible and able to fulfill the terms of the contract at a reasonable price.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 401.007. RECORDS OF EXPENDITURES. In addition to maintaining records required by law with regard to the expenditure of appropriated funds, the committee shall maintain a record of each expenditure of nonappropriated funds. The record must contain the following information about each expenditure:

- (1) the name and address of the entity to whom the expenditure was paid;
- (2) the amount of the expenditure;
- (3) the date of the expenditure; and
- (4) the purpose of the expenditure.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 401.008. FINAL REPORT; DISSOLUTION OF COMMITTEE. (a) As soon after the inauguration as the committee determines that it has completed its work and has satisfied its financial obligations, but not later than June 30 of the year in which the inauguration is held, the committee shall file with the secretary of state a final report verified by a certified public accountant that shows:

(1) the total amount of contributions received by the committee, including contributions paid to the secretary of state during the committee's existence;

(2) the total amount of expenditures made by the committee from nonappropriated funds; and

(3) the total amount of nonappropriated funds remaining in the committee's possession.

(b) On the date on which the committee files its final report with the secretary of state, the committee shall deliver to the comptroller all unexpended nonappropriated funds it possesses. The comptroller shall deposit the funds in the state treasury to the credit of the inaugural fund.

(c) When the secretary of state determines that the committee has complied with Subsections (a) and (b), the secretary of state shall issue a proclamation to that effect. The committee is dissolved on the day after the date the proclamation is issued.

(d) The final report of the committee is public information. Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 8.08, eff. Sept. 1, 1997.

Sec. 401.009. CLAIMS FILED AFTER DISSOLUTION. (a) If after dissolution of the committee a person files with the secretary of state a verified claim for an amount claimed to be due to the claimant under a contract made under this subchapter by the committee before its dissolution, the secretary of state shall submit a copy of the claim to the governor, lieutenant governor, and attorney general. If each of those officers files with the secretary of state a signed statement finding that the claim is valid, the secretary of state shall forward the original claim and the statements to the comptroller. If funds for the payment of expenses of the type covered by the claim have been appropriated and are available and if a legal reason does not exist for refusing payment, the comptroller shall pay the claim.

(b) Appropriations for the payment of claims under this section must be from the inaugural fund.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 401.010. ADDITIONAL STATE FUNDING. In addition to making appropriations from the inaugural fund as authorized by this subchapter, the legislature may appropriate other funds for any purpose for which money in the inaugural fund may be appropriated. Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 401.011. INAUGURAL ENDOWMENT FUND. (a) To the extent that the balance of the inaugural fund exceeds \$100,000 plus the amount necessary to cover fund obligations, on the date the inaugural committee appointed for an inauguration is dissolved that balance shall be transferred to an account in the general revenue fund to be known as the inaugural endowment fund. The fund shall be administered and expended in accordance with this section.

(b) The fund may be expended for decorating, furnishing, preserving, or improving the Capitol, the Governor's Mansion, or other state property of historical significance or for grants in support of public schools, public libraries, or other charitable causes at the discretion of the inaugural endowment fund committee.

(c) The inaugural endowment fund committee is composed of the chair of the Texas Historical Commission, a person appointed by the governor, a person appointed by the lieutenant governor, and a person appointed by the speaker of the house of representatives. Notwithstanding other law, the spouse of the governor, of a member of the legislature, or of another state officer may be appointed to the committee. The governor shall designate the chair of the committee from among the members.

(d) Appointed members of the committee serve for terms of two years, expiring on the third Tuesday in January in odd-numbered years. Committee members serve without compensation or reimbursement for travel or personal expenses incurred in carrying out committee duties, except that the service of the chair of the Texas Historical Commission is considered an additional duty of that office and expenses for that person shall be reimbursed by the commission to the same extent as for performance of other commission duties.

(e) Operations of the committee may not be conducted at state expense, and committee functions may not be carried out through the use of state personnel or equipment.

(f) Not later than October 1 of each year, the committee shall file a report with the secretary of state detailing expenditures made during the 12 months ending on the August 31 preceding the report. The secretary of state shall publish the report in the Texas Register.

(g) The committee is a governmental body for purposes of Chapters 551 and 552 but is not subject to Chapter 2001.

(h) Section 403.095 does not apply to the inaugural endowment fund.

Added by Acts 2001, 77th Leg., ch. 1454, Sec. 1, eff. Feb. 1, 2003.

#### SUBCHAPTER B. EMERGENCY INTERIM SUCCESSION

Sec. 401.021. SHORT TITLE. This subchapter may be cited as the Emergency Interim Executive Succession Act.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 401.022. DEFINITION. In this chapter, "unavailable" means not able to exercise the powers and discharge the duties of the office of governor for any reason specified in the Texas Constitution.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 401.023. SUCCESSION. (a) If the governor, lieutenant governor, and president pro tempore of the senate are unavailable, the following officers in succeeding order shall exercise the powers and discharge the duties of the office of governor:

(1) the speaker of the house of representatives;

(2) the attorney general; and

(3) the chief justices of the courts of appeals, in the numerical order of the supreme judicial districts the courts serve.

(b) An officer listed in this section acts as governor under this subchapter only if the preceding officers in the order of succession are unavailable.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 401.024. TERM OF SERVICE. A person acts as governor under this subchapter until a new governor is elected and qualified or until a preceding officer in the order of succession becomes available.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 401.025. EXCEPTION. The president pro tempore of the senate or speaker of the house of representatives may act as governor under this subchapter only if the person holds that office when the governor and lieutenant governor first become unavailable. Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

#### SUBCHAPTER C. GOVERNOR'S BUDGET

Sec. 401.041. CHIEF BUDGET OFFICER. The governor is the chief budget officer of the state.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 15, eff. Sept. 1, 1993.

Sec. 401.042. UNIFORM BUDGET ESTIMATE FORMS. (a) The governor may collaborate with the Legislative Budget Board in designing and preparing uniform budget estimate forms on which all requests for legislative appropriations must be prepared.

(b) The governor shall require that all appropriation requests be submitted to the governor on the forms.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 15, eff. Sept. 1, 1993.

Sec. 401.043. BUDGET HEARINGS. (a) After receiving the appropriation requests, the governor shall hold one or more public hearings concerning the requests. The governor shall preside at each hearing, except that the governor may authorize any employee of the executive branch to preside and represent the governor in the governor's absence.

(b) The head of a state agency that is seeking appropriations is entitled to speak at a hearing under this section at which the appropriation request is considered. The governor may require the head or any employee of a state agency seeking appropriations to appear at the hearing and present information about the appropriations. A taxpayer is entitled to participate in the discussion at a hearing under this section of any item proposed to be included in the budget under consideration.

(c) In this section, "state agency" means a board, commission, department, or other agency in the executive or judicial branch of state government.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 15, eff. Sept. 1, 1993.

Sec. 401.044. COOPERATION WITH LEGISLATIVE BUDGET BOARD. (a) The governor and the Legislative Budget Board may

cooperate, exchange information, and hold joint public hearings on the biennial appropriation budget.

(b) At a joint hearing under this section, the governor shall preside or, if the governor is unable to preside:

(1) the lieutenant governor shall preside; or

(2) a person appointed by the governor and the lieutenant governor shall preside.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 15, eff. Sept. 1, 1993.

Sec. 401.0445. COMPILATION OF THE BUDGET. (a) The governor shall compile the biennial appropriation budget using information:

(1) submitted to the governor in the uniform budget estimate forms; and

(2) obtained at public hearings, from inspections, and from other sources.

(b) In the budget, the governor shall show:

(1) the list of appropriations for the current year preceding the biennium for which appropriations are sought and recommended;

(2) expenditures for each of the two full years preceding the current year; and

(3) the amounts requested by the various agencies and the amounts recommended by the governor for each of the years of the biennium.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.89(a), eff. Sept. 1, 1995.

Sec. 401.045. LEGISLATIVE EXPENSES. The governor may not include in the governor's budget or appropriation bill any appropriation for per diem or mileage expenses of members of the legislature or for necessary expenses of the legislature.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 15, eff. Sept. 1, 1993.

Sec. 401.046. DISTRIBUTION OF BUDGET. (a) The governor shall deliver a copy of the governor's budget to each member of the legislature before the governor gives the message to the legislature required by Section 9, Article IV, Texas Constitution, at the commencement of each regular legislative session.

(b) The governor shall have as many copies of the budget printed for public distribution as the governor considers necessary.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 15, eff. Sept. 1, 1993.

Amended by Acts 2003, 78th Leg., 3rd C.S., ch. 3, Sec. 1.01, eff. Jan. 11, 2004.

Sec. 401.048. ANNUAL BUDGETS. A reference in this subchapter or in Chapter 322 to a biennial budget or a regular legislative session means an annual budget or an annual budget session if a constitutional amendment is adopted providing for annual budget sessions of the legislature.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 15, eff. Sept. 1, 1993.

#### SUBCHAPTER D. GOVERNOR'S EMERGENCY APPROPRIATIONS

Sec. 401.061. APPROPRIATIONS FOR EMERGENCY. The legislature may appropriate money to the governor to be used only:

(1) in an emergency, including an imperative public necessity;

(2) for the executive branch of state government;

(3) if other money is not available, because previously appropriated money has been spent or obligated; and

(4) for purposes for which specific other appropriations previously have been made.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 15, eff. Sept. 1, 1993.

Sec. 401.062. CERTIFICATION OF EMERGENCY. (a) The governor may determine that an emergency exists requiring the use of appropriations made under Section 401.061.

(b) A governor who makes a determination under this section shall certify to the comptroller the facts constituting the emergency and the reasons why the facts constitute an emergency.

(c) The defense of the nation and this state and the safety and economic prosperity of the people of this state require the governor, in making a determination to use or authorize the use of an appropriation made under Section 401.061, to give preference to impacted regions of significant new naval military facilities, as those terms are defined by Section 4, Article 1, National Defense Impacted Region Assistance Act of 1985 (Article 689a-4d, Vernon's Texas Civil Statutes).

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 15, eff. Sept. 1, 1993.

Sec. 401.063. DETERMINATION OF AVAILABILITY OF MONEY. (a) After receiving a certification under Section 401.062, the

comptroller shall determine whether money other than emergency appropriations is available for purposes of the emergency. The comptroller may obtain from any other agency whatever assistance the comptroller considers necessary for this purpose.

(b) The comptroller shall endorse on the governor's certification the availability or unavailability of other money, stating the source and amounts of available money, if any.

(c) The comptroller must return the governor's certification to the governor's office not later than the second working day after the date the comptroller receives the certification.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 15, eff. Sept. 1, 1993.

Sec. 401.064. FILING OF CERTIFICATION. The governor shall file with the secretary of state and the Legislative Budget Board a copy of the governor's original certification and the returned certification containing the comptroller's endorsement.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 15, eff. Sept. 1, 1993.

Sec. 401.065. EXPENDITURE FOR EMERGENCY. (a) The governor may spend appropriations made under Section 401.061 for the purpose of a certified emergency, but only after:

(1) the certification is endorsed by the comptroller showing that money other than emergency appropriations is not available for purposes of the emergency; and

(2) the governor receives the certification from the comptroller.

(b) The comptroller shall draw and pay the necessary warrants for the emergency.

(c) The governor by interagency contract may authorize an agency of the executive branch of state government to administer emergency appropriations approved under this subchapter. A contract made under this subsection is exempt from Chapter 771.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 15, eff. Sept. 1, 1993.

Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 8.09, eff. Sept. 1, 1997.

#### SUBCHAPTER E. SUCCESSION OF GOVERNOR-ELECT AND LIEUTENANT GOVERNOR-ELECT

Sec. 401.081. SUCCESSION OF GOVERNOR-ELECT AND LIEUTENANT GOVERNOR-ELECT. The speaker of the house of representatives and the president pro tem of the senate shall call a joint session of the house of representatives and the senate for the purpose of electing a governor and a lieutenant governor if:

(1) the governor-elect and the lieutenant governor-elect die or are permanently incapacitated to take their oaths of office at the time the legislature canvasses the election returns for governor and lieutenant governor; and

(2) the legislature finds that the governor-elect and the lieutenant governor-elect are not able to take the oath of office and to fulfill the duties of office.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 15, eff. Sept. 1, 1993.

Sec. 401.082. TERM OF SERVICE AS GOVERNOR. The individual who receives the highest number of votes cast by the members of the legislature for governor shall hold that office until the next general election.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 15, eff. Sept. 1, 1993.

Sec. 401.083. TERM OF SERVICE AS LIEUTENANT GOVERNOR. The individual who receives the highest number of votes cast by members of the legislature for lieutenant governor shall hold that office until the next general election.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 15, eff. Sept. 1, 1993.

#### SUBCHAPTER F. OFFICE OF THE GOVERNOR

Sec. 401.101. ACCEPTANCE OF GIFTS, GRANTS, AND DONATIONS BY THE GOVERNOR. The office of the governor may solicit and accept gifts, grants, and donations of money or property on behalf of the state for any lawful public purpose.

Added by Acts 1993, 73rd Leg., ch. 952, Sec. 1, eff. June 19, 1993. Amended by Acts 1997, 75th Leg., ch. 336, Sec. 2, eff. Sept. 1, 1997. Renumbered from V.T.C.A., Government Code Sec. 401.031 by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(36), eff. Sept. 1, 2001.

Sec. 401.102. OTHER GIFTS. Unsolicited benefits received by the governor that are prohibited under Section 36.08, Penal Code, may be donated to a governmental entity that has the authority to accept the gift or to a recognized tax-exempt charitable organization formed for educational, religious, or scientific purposes.

Added by Acts 1993, 73rd Leg., ch. 952, Sec. 1, eff. June 19, 1993.

Renumbered from V.T.C.A., Government Code Sec. 401.032 by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(36), eff. Sept. 1, 2001.

Sec. 401.104. GOVERNOR'S FLAG. (a) The governor may adopt a flag for the governor's official use.

(b) By executive order published in the Texas Register, the governor shall provide a description of a flag adopted under this section.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 7.101, eff. Sept. 1, 2001.