

Elections

SECTION 7-13-190. Special elections to fill vacancies in office.

(A) Except as otherwise provided in this code as to specific offices, whenever a vacancy occurs in office by reason of death, resignation, or removal and the vacancy in office is one which is filled by a special election to complete the term of office, this section applies.

(B) In partisan elections, whether seeking nomination by political party primary or political party convention, filing by these candidates shall open for the office at twelve o'clock noon on the third Friday after the vacancy occurs for a period to close ten days later at twelve o'clock noon. If seeking nomination by petition, the petitions must be submitted not later than twelve o'clock noon, sixty days prior to the election. Verification of these petitions must be made not later than twelve o'clock noon forty-five days prior to the election. If seeking nomination by political party primary or political party convention, filing with the appropriate official is the same as provided in Section 7-11-15 and if seeking nomination by petition, filing with the appropriate official is the same as provided in Section 7-11-70.

A primary must be held on the eleventh Tuesday after the vacancy occurs. A runoff primary must be held on the thirteenth Tuesday after the vacancy occurs. The special election must be on the eighteenth Tuesday after the vacancy occurs. If the eighteenth Tuesday after the vacancy occurs is no more than sixty days prior to the general election, the special election shall be held on the same day as the general election. If the filing period closes on a state holiday, then filing must be held open through the succeeding weekday. If the date for an election falls on a state holiday, it must be set for the next succeeding Tuesday. For purposes of this section, state holiday does not mean the general election day.

(C) If the office is not one for which there are partisan elections, then the filing must be opened at noon on the third Friday after the vacancy occurs for a period to close ten days later at noon. The filing must be made to the same entity to which the nonpartisan officeholders would normally file for office in a general election year. The election must be set for the thirteenth Tuesday after the vacancy occurs. Both the filing date and the election date are subject to the provisions in subsection (B) of this section regarding holidays.

(D) Provided, however, if a vacancy occurs in more than one office in the same county requiring separate special elections to be held within a period of twenty-eight days under the provisions of this section, the election commission or other authority responsible for the conduct of the elections shall conduct all of the elections on the same date. The special elections must be held on the latest date required for an election during the twenty-eight-day period.

(E)(1) A special election to fill a vacancy in an office is not required to be conducted if fourteen calendar days have elapsed since the filing period for that office has closed and:

(a) only one person has filed for the office; and

(b) no person has filed a declaration to be a write-in candidate with the authority charged by law with conducting the election.

(2) In such an event, the candidate who filed for the office is deemed elected and shall take office on the Monday following certification.

(3) The provisions of this subsection also apply to municipal general elections.

When no person has filed a declaration to be a write-in candidate pursuant to this section, the candidate who filed for the office must be declared the winner by the authority charged by law with conducting the election, and the votes for the election must not be counted or otherwise tabulated. Nothing in this section requires a ballot containing the name of a person who has been declared the winner pursuant to this section to be reprinted to delete the winning candidate's name or candidates' names from the ballot.

HISTORY: 1986 Act No. 493, eff. June 9, 1986; 1988 Act No. 363, § 3, eff. March 14, 1988; 1988 Act No. 380, eff. March 14, 1988; 1991 Act No. 61, § 1, eff. May 22, 1991; 1996 Act No. 226, § 4, eff. February 12, 1996; 1996 Act No. 243, § 1, eff. March 4, 1996; 1998 Act No. 412, § 4, eff. June 9, 1998; 2003 Act No. 3, § 2, eff. upon approval (became law without the Governor's signature on January 16, 2003).

Effect of Amendment

The 1988 amendment by Act No. 363, § 3, in subsection (B) added language relating to nomination by political party primary, political party convention, or by petition, and also added references to § 7-11-15.

The 1988 amendment by Act No. 380, added subsection (D), relating to the occurrence of a vacancy in more than one office in the same county.

The 1991 amendment in the second paragraph of (B) added "For purposes of this section, state holiday does not mean the general election day."

The first 1996 amendment by Act No. 226, effective February 12, 1996, revised subsection (B) to provide filing times for persons seeking nomination by petition.

The second 1996 amendment by Act No. 243, effective March 4, 1996, further revised subsection (B) to provide for timing of a special election with respect to the general election.

The 1998 amendment, in the first paragraph of subsection (B), added "twelve o'clock" in two places in the first sentence and rewrote the second sentence.

The 2003 amendment added subsection (E).

Cross References

Form and filing requirements of statement of intention, see § 7-11-15.

Special election to fill vacancy upon death, disqualification or withdrawal of nominee selected by primary election, where nomination certified less than two weeks before date of general election, see § 7-11-50.

Special election in event of substitution of nominee selected by primary election and nomination certified less than two weeks before date of general election, see § 7-11-55.

Library References

29 C.J.S., Elections §§ 66-82.

Attorney General's Opinions

Section 7-13-190(d) would require that both special elections to fill 2 vacant House seats in county should be held on later of 2 dates bearing 28-day period. 1991 Op Atty Gen, No. 91-55, p. 141.

Because § 7-13-190(d) is silent as to all but special election, and since nomination of candidates is specifically discussed elsewhere, § 7-13-190(d) most probably applies only to actual special election and not to primaries. 1991 Op Atty Gen, No. 91-55, p. 141.

Primary election to fill vacant Senate seat may not be scheduled for general election day, which is recognized legal holiday of State. 1990 Op Atty Gen No. 90-50.

A gubernatorial appointment with the advice and consent of the Senate is not final until the commission is issued by the Governor; the special election pursuant to § 8-1-140 would

The President of the Senate is required to issue writs of election to fill vacancies in the Senate pursuant to the provisions of Article III, Section 25 of the State Constitution and Act No. 493 of 1986. Because § 7-13-190 has already received preclearance, submissions to the Justice Department prior to scheduling or holding the special election are not necessary. 1986 Op Atty Gen, No. 86-120, p. 851.

Section 4-9-90 requires special election to be held when there are more than 180 days before next general election. 1993 Op Atty Gen No. 93-68.

If a special election for mayor is to be called because there are more than one hundred eighty days before the election, it must be called in sufficient time to permit the election to be held timely. 1994 Op Atty Gen, No. 94-52, p. 77.

Section 4-9-90 requires special election to be held when

ARTICLE 3

BALLOTS FOR GENERAL AND SPECIAL ELECTIONS

Section		Section	
7-13-310.	Kinds of general election ballots; different colored paper shall be used.	7-13-370.	Death, withdrawal or disqualification of candidate after name printed on ballot.
7-13-320.	Ballot standards and specifications.	7-13-380.	Reprinting ballots to delete name of deceased or withdrawn candidate is optional.
7-13-325.	Use of candidate's given name, derivative thereof, or nickname on ballot.	7-13-390.	Limitations on withdrawal of candidacy.
7-13-330.	Form of ballot; instructions.	7-13-400.	Form of ballot when questions are submitted.
7-13-335.	Arrangement of names on certain ballots.	7-13-410.	Ballots where both state-wide and local constitutional amendments are submitted.
7-13-340.	Printing and distribution of ballots.	7-13-420.	Oath of printer of ballots and assistants.
7-13-350.	Certification of candidates; verification of qualifications.	7-13-430.	Ballots provided where voting machines not used; substitute ballots; penalties for failure to provide; falsify ballots.
7-13-351.	Nominees by petition.	7-13-440.	Voting machine ballots; arrangement of nominations.
7-13-352.	Date by which statement of candidacy must be filed; verification of candidates' qualifications.	7-13-450.	Use of voting machines shall not prohibit use of separate ballots on certain questions.
7-13-355.	Time for submitting question to election commission for submission as referendum to electors.	7-13-460.	Use of paper ballots.
7-13-360.	Place on ballot for write-in names.		



SO... YOU WANT TO BE A CANDIDATE?

Facts you need to know to run for public office in South Carolina

To be elected to public office in South Carolina, you must be a resident of the district in which you are running for office* and a qualified registered elector (except Congress). To be elected to Congress, you do not need to reside in the district. You only need to be a qualified registered voter in the state.

To register to vote, you must:

- Be a citizen and a resident of the United States, South Carolina, the county and voting precinct you are to vote in
- Be at least 18 years of age as of the next general election
- Not be under a court order declaring you mentally incompetent nor serving a term of prison resulting from a conviction of a crime
- Not have been convicted of a felony or offense against the election laws. If convicted, you must have served the entire sentence, including probation and parole or have been legally pardoned. You may not hold elective public office until 15 years after serving your complete sentence, probation and parole.

All candidates must complete a **Statement of Economic Interests Form**.

This must be filed at the time you register to become a candidate to have your name placed on the ballot.

Filing deadlines for the **Statement of Intention of Candidacy Forms** are set by law.

Failure to file the proper forms will prohibit the candidate's name from appearing on the ballot.

No one can hold two offices of honor or profit at the same time.

Nicknames may be used if it does not exceed 15 letters, does not imply professional or social status, is a derivative of your given name properly acquired or bears no relation to your given name but is used in good faith. You must make a written request to the authority responsible for printing the ballots no later than the deadline for certification of candidates.

**Candidate's qualifications are determined at the time of the election and not at the time of nomination. Therefore, you may seek nomination when you have not yet met the qualifications of a registered voter, if these qualifications will have been met by the date of the general or special election.*

When and where to file

Candidates for statewide, congressional, or multi-county district offices file with the State Executive Committee of their political party between noon on March 16 and noon on March 30.

Candidates for state Senate or House of Representatives, county wide or less than county wide offices file with the County Executive Committee of their political party between noon on March 16 and noon on March 30.

Petition candidates for any multi-county office must file their petition with the State Election Commission by noon, July 15th. If this date falls on a Saturday or Sunday, petitions are due no later than 12:00 noon on the following Monday.

Petition candidates for any county wide or less than county wide office must file their petitions with the county election commission by noon, July 15th. If this date falls on a Saturday or Sunday, petitions are due no later than 12:00 noon on the following Monday.

If a candidate fails to file the proper forms, their name will not appear on the ballot.

Qualifications for Office

Candidate's qualifications are determined at the time of the election and not at the time of nomination. Therefore, you may seek nomination when you have not yet met the qualifications of a registered voter, if these qualifications will have been met by the date of the general or special election. The S.C. House of Representatives is an exception. You must be a resident of the district at the time you file.

U.S. Senate
Be at least 30 years of age.
Be a United States citizen for at least nine years.

U.S. House of Representatives
Be at least 25 years of age.
Be a United States citizen for at least seven years.

S.C. Governor and Lt. Governor
Be at least 30 years of age.
Be a United States citizen and a citizen and resident of South Carolina for five years preceding the election.

S.C. Secretary of State, Attorney General, Treasurer, Superintendent of Education, Comptroller General and Adjutant General
There are no age requirements.
You need to be a qualified registered voter.

S.C. Senate
Be at least 25 years of age.
Be a resident of the district at the time you file.

S.C. House of Representatives
Be at least 21 years of age.
Be a resident of the district at the time you file.

County Government
Meet any qualifications for that particular county office.

Municipal Government
Be a resident within the city limits for at least 30 days prior to that particular election. Meet any qualifications for that particular city office.



Candidate Do's and Don'ts

It is illegal to distribute any type of campaign literature or display any political posters within 200 feet of any entrance used by the voters to enter the polling place. No bumper stickers, signs, buttons, brochures, etc. may be displayed inside the polling place or within this 200 foot zone.

It is against the law for any person to display, place or affix a poster within any right-of-way and visible from the main-traveled way of the highway. Telephone/utility poles are considered within the right-of-way. They also are private property. Placing posters on these poles can be considered destruction of private property. Individuals can be prosecuted as such. Placing posters on utility poles is not only illegal, but also the staples and nails left in the poles are very dangerous for the workers who must climb these poles during an emergency.

A candidate or member of a candidate's paid campaign staff, including volunteers reimbursed for time expended on campaign activity, may not request an absentee ballot application for any person unless that person is a member of their immediate family.

Candidates are permitted to observe the election process in the various polling places where their name is on the ballot. Candidates may also greet voters waiting in line to vote as long as they do not intimidate the voters or interfere with the orderly conduct of the election.

Poll Watchers

A poll watcher is someone who is appointed by a candidate or a political party to observe the election day procedures in a precinct in South Carolina. The poll managers of the polling place will designate a place where watchers can remain throughout election day. Conversations between watchers and voters are not permitted within the polling place. Watchers will not be permitted to interfere with the orderly conduct of the election or influence any voter in the casting this ballot.

Qualifications

- Must be a qualified voter in the county.
- Present the poll manager with a letter signed by the candidate or by an appropriate party official stating that he/she is certified to act as a watcher in that precinct.
- Wear a badge not to exceed 4 1/4" x 4 1/4", specifying the name of the candidate or party he/she represents.

Appointment

In a primary election each candidate may appoint one watcher for any polling place where his/her name is on the ballot.

In a general election each non-partisan, petition or announced write-in candidate may appoint one watcher for any polling place where his/her name is on the ballot.

All candidates of the same political party are jointly represented at any one voting place by no more than two watchers for each 1000 registered voters at the polling place.

Nomination by petition

Petitions must contain the signatures of at least 5% of the active registered voters of the area of the office. The 5% is based on the total number of registered voters in the area of the office 120 days prior to the election. No petition required more than 10,000 signatures.

The last date to submit a petition for the November 5th General Election is **12:00 noon, July 15**. If this date falls on a Saturday or Sunday, petitions are due no later than 12:00 noon on the following Monday. There is no filing fee.

Petitions must be standardized as follows:

- Be on 8 1/2" x 14" good quality original bond paper.
- Contain a concise statement of purpose, name of candidate, office and date of election.
- Contain in separate columns from left to right the signature and printed name of voter, address where registered and precinct.
- Each petition page must contain signatures of registered voters from the same county.
- Each page must be consecutively numbered.

Copies of petition forms are available at your county election commission or the State Election Commission.

Write-In Candidates

There are no filing forms or fees required to run as a write-in candidate.

A defeated primary candidate may not actively offer or campaign as a write-in candidate for the ensuing election.

The use of posters or stickers on the ballot is not permitted.

A voter must cast his write-in ballot in his or her own handwriting or that of a duly authorized assistant.

Write-in votes are not allowed in primary elections or the election of President or Vice-president. Write-in votes are allowed for all other elections.

(In 1954, Strom Thurmond was a successful write-in candidate for the office of United States Senator.)

Special Elections

Non-scheduled elections called special elections are held throughout the year to fill vacancies created by death, resignation or removal from office.

Filing for these countywide and less-than-countywide seats opens at noon, the third Friday after the vacancy occurs. Filing closes ten days later at noon. Filing deadlines for municipal offices may vary.

For partisan elections, a primary is held on the 11th Tuesday after the vacancy occurs. A runoff, if necessary, is held on the 13th Tuesday after the vacancy occurs. The special election is held on the 18th Tuesday after the vacancy occurs.

For non-partisan elections, the special election is held on the 13th Tuesday after the vacancy occurs. Filing opens at noon the third Friday after the vacancy occurs and closes ten days later at noon.

Nomination of Candidates by Political Party

Primaries to nominate candidates for the November general election are conducted by the State and county election commissions. Conventions are conducted by the parties. Candidates file with their respective political party. The filing fee is one percent of the total salary for the term of that office or \$100.00, whichever is greater.

Certified parties in South Carolina are the **Democratic, Libertarian, United Citizens, Reform, Republican, Constitution** and the **Green** parties. Contact these parties for more information concerning nominations.

Party	Phone	Chairman
Democratic	803.799.7798	Lachlan McIntosh
Libertarian	843.267.0045	Chris Panos
United Citizens	803.735.7928	Glen Davis
Independence	864.879.2617	Wayne Griffin
Republican	803.988.8440	Katon Dawson
Constitution	864.292.5001	Ted Adams
Green	803.252.0909	David P. Whiteman