

28 (a) "Board member" means each gubernatorial appointee to any state board, committee,
29 commission, council, or authority.

30 (b) "Executive branch management position" includes department executive directors,
31 division directors, and any other administrative position in state government where the person
32 filling the position:

33 (i) works full-time performing managerial and administrative functions;

34 (ii) is appointed by the governor with the consent of the Senate.

35 (c) (i) "Executive branch policy position" means any person other than a person filling
36 an executive branch management position, who is appointed by the governor with the consent
37 of the Senate.

38 (ii) "Executive branch policy position" includes each member of any state board and
39 commission appointed by the governor with the consent of the Senate.

40 (2) (a) Whenever a vacancy occurs in any executive branch policy position or in any
41 executive branch management position, the governor shall submit the name of a nominee to the
42 Senate for consent no later than three months after the day on which the vacancy occurs.

43 (b) If the Senate fails to consent to that person within 90 days after the day on which
44 the governor submits the nominee's name to the Senate for consent:

45 (i) the nomination is considered rejected; and

46 (ii) the governor shall resubmit the name of the nominee described in Subsection (2)(a)
47 or submit the name of a different nominee to the Senate for consent no later than 60 days after
48 the date on which the nomination was rejected by the Senate.

49 (3) (a) Whenever a vacancy occurs in any executive branch management position, the
50 governor may either:

51 (i) appoint an interim manager who meets the qualifications of the vacant position to
52 exercise the powers and duties of the vacant position for three months, pending consent of a
53 person to permanently fill that position by the Senate; or

54 (ii) appoint an interim manager who does not meet the qualifications of the vacant
55 position and submit that person's name to the Senate for consent as interim manager within one
56 month of the appointment.

57 (b) If the Senate fails to consent to the interim manager appointed under Subsection
58 (3)(a)(ii) within 30 days after the day on which the governor submits the nominee's name to the

59 Senate for consent:

60 (i) the nomination is considered rejected; and

61 (ii) the governor may:

62 (A) (I) reappoint the interim manager to whom the Senate failed to consent within 30
63 days; and

64 (II) resubmit the name of the person described in Subsection (3)(b)(ii)(A)(I) to the
65 Senate for consent as interim manager; or

66 (B) appoint a different interim manager under Subsection (3)(a).

67 (c) If, after an interim manager has served three months, no one has been appointed and
68 received Senate consent to permanently fill the position, the governor shall:

69 (i) appoint a new interim manager who meets the qualifications of the vacant position
70 to exercise the powers and duties of the vacant position for three months; or

71 (ii) submit the name of the first interim manager to the Senate for consent as an interim
72 manager for a three-month term.

73 (d) If the Senate fails to consent to a nominee whose name is submitted under
74 Subsection (3)(c)(ii) within 30 days after the day on which the governor submits the name to
75 the Senate:

76 (i) the nomination is considered rejected; and

77 (ii) the governor shall:

78 (A) (I) reappoint the person described in Subsection (3)(d); and

79 (II) resubmit the name of the person described in Subsection (3)(d) to the Senate for
80 consent as interim manager; or

81 (B) appoint a different interim manager in the manner required by Subsection (3)(a).

82 (4) The governor may not make a temporary appointment to fill a vacant executive
83 branch policy position.

84 (5) (a) Before appointing any person to serve as a board member, the governor shall
85 ask the person whether or not the person wishes to receive per diem, expenses, or both for
86 serving as a board member.

87 (b) If the person declines to receive per diem, expenses, or both, the governor shall
88 notify the agency administering the board, commission, committee, council, or authority and
89 direct the agency to implement the board member's request.

90 (6) A gubernatorial nomination upon which the Senate has not acted to give consent or
91 refuse to give consent is void when a vacancy in the office of governor occurs.

92 (7) The governor may not appoint an individual as a board member if, within one year
93 before the day on which the governor makes the appointment, the individual held the position
94 of executive director of a department.

Legislative Review Note
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