

# **Legislative History of Filling Constitutional Officer Vacancies**

By: Jennifer Proto, Principal Analyst  
Christine McCluskey, Librarian  
December 23, 2020 | 2020-R-0355

## **Issue**

Provide the legislative history of [CGS § 9-213](#), which addresses how four of the state's constitutional officers (the attorney general, comptroller, secretary of the state (SOTS), and treasurer) are appointed if there is a vacancy.

## **Summary**

Dating to at least 1818, vacancies in the offices of the comptroller, SOTS, and treasurer were all filled in the same way – by gubernatorial appointment, unless the General Assembly was in session, in which case the legislature was required to do so. A change in 1850 allowed the governor to fill vacancies occurring during the session if the General Assembly failed to act. The creation of the office of attorney general in 1897 yielded a separate provision for filling that office's vacancy. More than a century passed until the only other significant change in 2000, which in the wake of a corruption scandal, separated the procedure for filling a vacancy in the treasurer's office.

## ***Secretary of the State & State Comptroller***

By law, a vacancy in the office of the secretary of the state or the office of the state comptroller is filled by the legislature when it occurs while the General Assembly is in session. The vacancy is filled by the governor, however, if it occurs when the legislature is not in session or fails to make an appointment ([CGS § 9-213\(a\)](#)).

According to the legislative library, this provision, which originally also applied to the office of the treasurer, dates back to at least 1818. One significant change in 1850 allowed the governor to fill vacancies occurring during the legislative session if the General Assembly fails to do so.

Unfortunately, both 1818 and 1850 pre-date the retention of legislative history materials. A search of Courant archives for these years turned up an 1850 article that briefly mentions that year's bill before reporting on a long ballot-casting process in the House for filling a SOTS vacancy (see excerpt, below).

#### **HOUSE OF REPRESENTATIVES.**

*Thursday Afternoon, June 13.*

Mr. Hamersley presented a bill for an act empowering Governor to appoint Secretary of State, Treasurer, and Controller, when those offices become vacant by the death of the incumbents, and moved its reference to the judiciary committee.

Mr. Burnham called for the order of the day, the election of Secretary of State.

The 8th ballot was then taken, with the following result; Whole number, 211; Wm. A. Judson, 100; E. H. Mills, 102; Harlon Roys, 1; Roger Averhill, 2; Isaac Tenney, 1; A. A. Burnham, 1; Nathan Lane, 1; Wm. Hyde, 1; N. A. Phelps, 1; Chas Cheeney, 1.

9th ballot—Whole number, 208; Judson, 90; Mills, 100; Scattering, 9.

10th ballot—Whole number, 210; Judson, 97; Mills, 100; Scattering, 9.

11th ballot—Whole number, 212; Mills, 106; Judson, 99; Scattering, 7.

12th ballot—Whole number, 208; Mills, 105; Judson, 100; Scattering, 3.

Source: Hartford Daily Courant (1840-1887); Jun 15, 1850;

ProQuest Historical Newspapers: Hartford Courant, pg. 2

### ***Attorney General***

By law, a vacancy in the office of attorney general is filled by appointment by the governor for the remainder of the term ([CGS § 9-213\(b\)](#)). According to the legislative library, this provision dates back to 1897, when the office of attorney general was established. Unfortunately, the state library confirmed that there are no legislative history materials or relevant Hartford Courant archives for the 1897 bill.

## ***State Treasurer***

The filling of a vacancy in the office of the treasurer depends on whether it occurs (1) when the General Assembly is in session and (2) during a state election year. If in session, the General Assembly fills the vacancy for the remainder of the term. However, vacancies occurring in non-election years for the office are filled by the governor if the legislature is not in session or fails to make an appointment. The governor must appoint an acting treasurer until the next regular legislative session, when he must nominate a successor for the office, subject to approval by the General Assembly. Vacancies occurring in the year of a state election for the treasurer's office are filled by the deputy treasurer for the remainder of the term if the legislature is not in session or fails to make an appointment ([CGS § 9-213\(c\)](#)).

The procedure for filling a vacancy in the treasurer's office was changed in 2000, as part of a series of public investment and campaign finance reforms in the wake of a 1999 corruption scandal involving former state treasurer Paul J. Silvester. (According to the [Courant](#), "Silvester, whom Rowland elevated to the office of treasurer in July 1997, pleaded guilty in federal court [] to felony counts of racketeering and conspiracy related to bribery and kickbacks in connection with investments he made on behalf of the [] state employee pension fund" ("*Big Donors Got State Investments*," The Hartford Courant, October 14, 1999).)

[PA 00-43](#) eliminated the governor's power to appoint someone as treasurer to fill the entire unexpired term if the office becomes vacant when the General Assembly is not in session. It also requires that a deputy treasurer fill any vacancy that occurs in a year when a regular election for treasurer's office is scheduled (see above).

JP:kc