

By: Duncan, Ellis

S.B. No. 308

A BILL TO BE ENTITLED

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AN ACT

relating to temporary successors to members of the legislature during a period of emergency caused by enemy attack.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 304.004, Government Code, is amended to read as follows:

Sec. 304.004. DESIGNATION OF EMERGENCY INTERIM SUCCESSORS ~~[BY LEGISLATOR: ALTERNATE LIST]~~. (a) Each ~~[A list prepared for a district under this section is an alternate list to be used only if there are no designees on the list prepared under Section 304.003 or if those designees are unavailable.]~~

~~[(b) For the purpose of designating emergency interim successors, 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 ~~[becomes]~~ unavailable to serve as provided by this chapter. Each individual designated must ~~[be from the same political party as that legislator, 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 ~~[Each]~~ legislator shall

1 file [~~submit~~] a list of the legislator's designees who have  
2 accepted the designation, ranked in order of succession, together  
3 with the written acceptance of each designee, with [~~to~~] the  
4 secretary of the senate or the chief clerk of the house of  
5 representatives, as applicable. That officer shall promptly  
6 deliver a certified copy of the list and of each acceptance to the  
7 secretary of state.

8 (d) At least annually [~~Annually~~], each legislator shall  
9 review the most recent list of emergency interim successors to the  
10 position held [~~lists submitted~~] by the legislator [~~to the secretary~~  
11 ~~of state~~] to ensure that there are at least three qualified  
12 emergency interim successors on the list. Each legislator shall  
13 make revisions to the list as necessary and may make other revisions  
14 the legislator considers appropriate. A revision designating a new  
15 emergency interim successor must be accompanied by the written  
16 acceptance of the designee. The secretary of the senate or chief  
17 clerk of the house, as applicable, shall promptly deliver a  
18 certified copy of each revision and of any accompanying acceptance  
19 to the secretary of state.

20 (e) If at any time a legislator has not designated [~~fails to~~  
21 ~~designate~~] emergency interim successors as required by this  
22 section, the lieutenant governor or speaker of the house, as  
23 appropriate, may [~~shall~~] designate in order of succession not [~~less~~  
24 ~~than three nor~~] more than seven individuals to serve as emergency  
25 interim successors if that legislator becomes unavailable. Each  
26 individual designated must meet the applicable age and residence  
27 requirements and submit a written acceptance of the designation.

1 The lieutenant governor or speaker ~~[and]~~ shall file ~~[submit]~~ the  
2 list and the written acceptances of the designees with ~~[to]~~ the  
3 secretary of the senate or the chief clerk of the house, as  
4 applicable, who shall deliver a certified copy of the list and of  
5 each acceptance to the secretary of state. At any time, the  
6 legislator in the manner provided by this section may make  
7 revisions to the list filed under this subsection or file a  
8 superseding list of designees.

9 SECTION 2. Section 304.005, Government Code, is amended to  
10 read as follows:

11 Sec. 304.005. WHEN DESIGNATION OR REVISION TAKES EFFECT  
12 ~~[RECORDING]~~. (a) Each designation of an emergency interim  
13 successor ~~[successors]~~ becomes effective when the individual  
14 making the designation files the designation ~~[successor's name,~~  
15 ~~address,]~~ and the designee's written acceptance with the  
16 appropriate senate or house officer under Section 304.004  
17 ~~[secretary of state]~~.

18 (b) The removal of an emergency interim successor from the  
19 list or a change in the order of succession becomes effective when  
20 an individual authorized to make the change files that information  
21 with the appropriate senate or house officer under Section 304.004  
22 ~~[secretary of state]~~.

23 (c) Information filed under this chapter ~~[section]~~ is  
24 public information, except that the home address and home telephone  
25 number of a designee may be disclosed only if the designee, in a  
26 signed writing filed with the secretary of the senate or chief clerk  
27 of the house of representatives, as applicable, specifically states

1 that the information may be disclosed.

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

11 SECTION 3. Section 304.008, Government Code, is amended to  
12 read as follows:

13 Sec. 304.008. ASSUMPTION OF POWERS AND DUTIES. (a) If the  
14 governor has declared an emergency due to enemy attack or the  
15 immediate threat of enemy attack under Section 62, Article III,  
16 Texas Constitution, and the lieutenant governor or speaker of the  
17 house, as applicable, determines that a legislator is unavailable  
18 to serve when the legislature has convened or will convene, the  
19 lieutenant governor or speaker, as applicable, shall certify to the  
20 secretary of state that the [in the event of attack a] legislator is  
21 unavailable. If the governor has declared an emergency due to enemy  
22 attack or the immediate threat of enemy attack under Section 62,  
23 Article III, Texas Constitution, and at the time and place the  
24 legislature is scheduled to convene the lieutenant governor or  
25 speaker is absent from the applicable house, a majority of the  
26 members of that house who are present may determine that a member of  
27 that house who is not present is unavailable and certify that

1 determination to the secretary of state.

2 (b) If a legislator is certified to be unavailable under  
3 Subsection (a), the secretary of state shall notify the  
4 legislator's emergency interim successor highest in order of  
5 succession who is available that the emergency interim successor is  
6 entitled to exercise the powers and duties of the legislator who is  
7 unavailable. The secretary of state shall inform the [~~each~~]  
8 emergency interim successor of the date, time, and place at which  
9 the legislature is meeting or will meet, as soon as that is known[~~,~~  
10 ~~and shall also inform each successor of the date and time at which~~  
11 ~~each must appear~~]. If the emergency interim successor declines to  
12 serve or does not appear and begin to serve within a reasonable time  
13 as determined by the lieutenant governor or speaker of the house, as  
14 applicable, the secretary of state at the request of the lieutenant  
15 governor or speaker shall notify the emergency interim successor  
16 next in order of succession who is available that the emergency  
17 interim successor is entitled to exercise the powers and duties of  
18 the legislator who is unavailable.

19 (c) [(b)] The emergency interim successor shall exercise  
20 the powers and assume the duties of the legislator whom the  
21 individual [~~he~~] succeeds, except that the successor may not  
22 designate emergency interim successors or make revisions to a  
23 designation [~~for himself~~].

24 (d) [(c)] The emergency interim successor exercises those  
25 powers and assumes those duties until the secretary of state  
26 notifies the successor that the incumbent legislator, an emergency  
27 interim successor higher in order of succession for the same

1 position, or a legislator elected to the same position and legally  
2 qualified can act.

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

8 SECTION 4. Subsection (c), Section 304.009, Government  
9 Code, is amended to read as follows:

10 (c) An emergency interim successor's performance of the  
11 powers and duties of an unavailable legislator does not affect the  
12 successor's entitlement to other compensation or benefits to which  
13 the successor might otherwise be entitled. Section 812.203(a)  
14 [~~812.203(d)~~] does not apply to an individual serving as an  
15 emergency interim successor under this chapter.

16 SECTION 5. Section 304.003, Government Code, is repealed.

17 SECTION 6. (a) Not later than January 1, 2006, or as soon  
18 thereafter as practicable, each member of the legislature in office  
19 on the effective date of this Act shall file a list designating  
20 emergency interim successors in accordance with Chapter 304,  
21 Government Code, as amended by this Act.

22 (b) A designation of emergency interim successors to a  
23 member of the legislature filed with the secretary of state under  
24 Chapter 304, Government Code, before the effective date of this Act  
25 that is in effect on the effective date of this Act remains in  
26 effect on and after the effective date of this Act until the earlier  
27 of the following occurs:

1           (1) the legislator files a list of interim successors  
2 with the secretary of the senate or chief clerk of the house of  
3 representatives, as applicable, in accordance with Chapter 304,  
4 Government Code, as amended by this Act; or

5           (2) the legislator for whom the designation was made  
6 ceases to be a member of the legislature.

7           (c) Subsection (b) of this section does not prohibit the  
8 lieutenant governor or the speaker of the house of representatives  
9 from acting under Subsection (e), Section 304.004, Government Code,  
10 as amended by this Act, when appropriate.

11           SECTION 7. This Act takes effect September 1, 2005.