

1-1 By: Duncan S.B. No. 308
1-2 (In the Senate - Filed January 31, 2005; February 7, 2005,
1-3 read first time and referred to Committee on State Affairs;
1-4 March 1, 2005, reported favorably by the following vote: Yeas 9,
1-5 Nays 0; March 1, 2005, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to temporary successors to members of the legislature
1-9 during a period of emergency caused by enemy attack.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Section 304.004, Government Code, is amended to
1-12 read as follows:

1-13 Sec. 304.004. DESIGNATION OF EMERGENCY INTERIM SUCCESSORS
1-14 ~~[BY LEGISLATOR: ALTERNATE LIST].~~ (a) ~~Each~~ ~~[A list prepared for a~~
1-15 ~~district under this section is an alternate list to be used only if~~
1-16 ~~there are no designees on the list prepared under Section 304.003 or~~
1-17 ~~if those designees are unavailable.~~

1-18 ~~[(b) For the purpose of designating emergency interim~~
1-19 ~~successors, each]~~ legislator shall designate not less than three
1-20 nor more than seven individuals to serve as emergency interim
1-21 successors if the legislator is certified to be ~~[becomes]~~
1-22 unavailable to serve as provided by this chapter. Each individual
1-23 designated must ~~[be from the same political party as that~~
1-24 ~~legislator, must]~~ meet age and residence requirements for a senator
1-25 or representative, as applicable, and must submit a written
1-26 acceptance to the legislator.

1-27 (b) To be effective, a designation must include the name and
1-28 address of the designee.

1-29 (c) As soon as practicable after a legislator takes the oath
1-30 of office for the legislator's term, the ~~[Each]~~ legislator shall
1-31 file ~~[submit]~~ a list of the legislator's designees who have
1-32 accepted the designation, ranked in order of succession, together
1-33 with the written acceptance of each designee, with ~~[to]~~
1-34 the secretary of the senate or the chief clerk of the house of
1-35 representatives, as applicable. That officer shall promptly
1-36 deliver a certified copy of the list and of each acceptance to the
1-37 secretary of state.

1-38 (d) At least annually ~~[Annually]~~, each legislator shall
1-39 review the most recent list of emergency interim successors to the
1-40 position held ~~[lists submitted]~~ by the legislator ~~[to the secretary~~
1-41 ~~of state]~~ to ensure that there are at least three qualified
1-42 emergency interim successors on the list. Each legislator shall
1-43 make revisions to the list as necessary and may make other revisions
1-44 the legislator considers appropriate. A revision designating a new
1-45 emergency interim successor must be accompanied by the written
1-46 acceptance of the designee. The secretary of the senate or chief
1-47 clerk of the house, as applicable, shall promptly deliver a
1-48 certified copy of each revision and of any accompanying acceptance
1-49 to the secretary of state.

1-50 (e) If at any time a legislator has not designated ~~[fails to~~
1-51 ~~designate]~~ emergency interim successors as required by this
1-52 section, the lieutenant governor or speaker of the house, as
1-53 appropriate, may ~~[shall]~~ designate in order of succession not ~~[less~~
1-54 ~~than three nor]~~ more than seven individuals to serve as emergency
1-55 interim successors if that legislator becomes unavailable. Each
1-56 individual designated must meet the applicable age and residence
1-57 requirements and submit a written acceptance of the designation.
1-58 The lieutenant governor or speaker ~~[and]~~ shall file ~~[submit]~~
1-59 the list and the written acceptances of the designees with ~~[to]~~
1-60 the secretary of the senate or the chief clerk of the house, as
1-61 applicable, who shall deliver a certified copy of the list and of
1-62 each acceptance to the secretary of state. At any time, the
1-63 legislator in the manner provided by this section may make
1-64 revisions to the list filed under this subsection or file a

2-1 superseding list of designees.

2-2 SECTION 2. Section 304.005, Government Code, is amended to
2-3 read as follows:

2-4 Sec. 304.005. WHEN DESIGNATION OR REVISION TAKES EFFECT
2-5 [RECORDING]. (a) Each designation of an emergency interim
2-6 successor [successors] becomes effective when the individual
2-7 making the designation files the designation [successor's name,
2-8 address,] and the designee's written acceptance with the
2-9 appropriate senate or house officer under Section 304.004
2-10 [secretary of state].

2-11 (b) The removal of an emergency interim successor from the
2-12 list or a change in the order of succession becomes effective when
2-13 an individual authorized to make the change files that information
2-14 with the appropriate senate or house officer under Section 304.004
2-15 [secretary of state].

2-16 (c) Information filed under this chapter [section] is
2-17 public information, except that the home address and home telephone
2-18 number of a designee may be disclosed only if the designee, in a
2-19 signed writing filed with the secretary of the senate or chief clerk
2-20 of the house of representatives, as applicable, specifically states
2-21 that the information may be disclosed.

2-22 (d) A certified copy of a list of designated emergency
2-23 interim successors or of a revision of a list delivered to the
2-24 secretary of state under this chapter is for informational purposes
2-25 only unless the lieutenant governor or speaker of the house
2-26 certifies to the secretary of state that the applicable records of
2-27 the senate or house have been lost or destroyed or have become
2-28 unavailable in another manner, in which event the certified records
2-29 delivered to the secretary of state are treated as if they are the
2-30 original records.

2-31 SECTION 3. Section 304.008, Government Code, is amended to
2-32 read as follows:

2-33 Sec. 304.008. ASSUMPTION OF POWERS AND DUTIES. (a) If the
2-34 governor has declared an emergency due to enemy attack or the
2-35 immediate threat of enemy attack under Section 62, Article III,
2-36 Texas Constitution, and the lieutenant governor or speaker of the
2-37 house, as applicable, determines that a legislator is unavailable
2-38 to serve when the legislature has convened or will convene, the
2-39 lieutenant governor or speaker, as applicable, shall certify to the
2-40 secretary of state that the [in the event of attack a] legislator is
2-41 unavailable. If the governor has declared an emergency due to enemy
2-42 attack or the immediate threat of enemy attack under Section 62,
2-43 Article III, Texas Constitution, and at the time and place the
2-44 legislature is scheduled to convene the lieutenant governor or
2-45 speaker is absent from the applicable house, a majority of the
2-46 members of that house who are present may determine that a member of
2-47 that house who is not present is unavailable and certify that
2-48 determination to the secretary of state.

2-49 (b) If a legislator is certified to be unavailable under
2-50 Subsection (a), the secretary of state shall notify the
2-51 legislator's emergency interim successor highest in order of
2-52 succession who is available that the emergency interim successor is
2-53 entitled to exercise the powers and duties of the legislator who is
2-54 unavailable. The secretary of state shall inform the [each]
2-55 emergency interim successor of the date, time, and place at which
2-56 the legislature is meeting or will meet, as soon as that is known[,
2-57 and shall also inform each successor of the date and time at which
2-58 each must appear]. If the emergency interim successor declines to
2-59 serve or does not appear and begin to serve within a reasonable time
2-60 as determined by the lieutenant governor or speaker of the house, as
2-61 applicable, the secretary of state at the request of the lieutenant
2-62 governor or speaker shall notify the emergency interim successor
2-63 next in order of succession who is available that the emergency
2-64 interim successor is entitled to exercise the powers and duties of
2-65 the legislator who is unavailable.

2-66 (c) ~~(b)~~ The emergency interim successor shall exercise
2-67 the powers and assume the duties of the legislator whom the
2-68 individual [he] succeeds, except that the successor may not
2-69 designate emergency interim successors or make revisions to a

3-1 designation [~~for himself~~].

3-2 (d) [~~(e)~~] The emergency interim successor exercises those
 3-3 powers and assumes those duties until the secretary of state
 3-4 notifies the successor that the incumbent legislator, an emergency
 3-5 interim successor higher in order of succession for the same
 3-6 position, or a legislator elected to the same position and legally
 3-7 qualified can act.

3-8 (e) Any dispute as to the qualification of an individual to
 3-9 exercise the powers and assume the duties of a legislator under this
 3-10 chapter shall be determined by the applicable house of the
 3-11 legislature as provided by Section 8, Article III, Texas
 3-12 Constitution.

3-13 SECTION 4. Subsection (c), Section 304.009, Government
 3-14 Code, is amended to read as follows:

3-15 (c) An emergency interim successor's performance of the
 3-16 powers and duties of an unavailable legislator does not affect the
 3-17 successor's entitlement to other compensation or benefits to which
 3-18 the successor might otherwise be entitled. Section 812.203(a)
 3-19 [~~812.203(d)~~] does not apply to an individual serving as an
 3-20 emergency interim successor under this chapter.

3-21 SECTION 5. Section 304.003, Government Code, is repealed.

3-22 SECTION 6. (a) Not later than January 1, 2006, or as soon
 3-23 thereafter as practicable, each member of the legislature in office
 3-24 on the effective date of this Act shall file a list designating
 3-25 emergency interim successors in accordance with Chapter 304,
 3-26 Government Code, as amended by this Act.

3-27 (b) A designation of emergency interim successors to a
 3-28 member of the legislature filed with the secretary of state under
 3-29 Chapter 304, Government Code, before the effective date of this Act
 3-30 that is in effect on the effective date of this Act remains in
 3-31 effect on and after the effective date of this Act until the earlier
 3-32 of the following occurs:

3-33 (1) the legislator files a list of interim successors
 3-34 with the secretary of the senate or chief clerk of the house of
 3-35 representatives, as applicable, in accordance with Chapter 304,
 3-36 Government Code, as amended by this Act; or

3-37 (2) the legislator for whom the designation was made
 3-38 ceases to be a member of the legislature.

3-39 (c) Subsection (b) of this section does not prohibit the
 3-40 lieutenant governor or the speaker of the house of representatives
 3-41 from acting under Subsection (e), Section 304.004, Government Code,
 3-42 as amended by this Act, when appropriate.

3-43 SECTION 7. This Act takes effect September 1, 2005.

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