

Memorandum

To: President O’Dette and Members of the Board of Directors
Truckee Tahoe Airport District

From: Best Best & Krieger LLP

Date: August 28, 2020

Re: Procedure for Filing Board Vacancy

Director Morrison of the Truckee Tahoe Airport District (“District”) submitted a resignation letter on August 26th after the conclusion of the Board of Directors meeting. This creates a vacancy on the Board of Directors, and the District must follow the procedures set forth in Government Code section 1780 to fill the vacancy. (See Gov. Code, § 1780; Pub. Util. Code, § 22406.) Below is an overview of the procedures. However, the Board has two basic options: (1) appoint someone to fill the vacancy or (2) call a special election to do so. The appointee will serve the remainder of Director Morrison’s term until 2022.

I. Notifying County Elections Official & Posting Notice of Vacancy

Government Code section 1780(a) requires the District to notify the county elections official of the vacancy no later than fifteen days following either the date on which the Board is notified of the vacancy or the effective date of the vacancy, whichever is later. Here, the resignation occurred on August 26th, and the District must notify the Placer and Nevada Counties elections officials by September 10th.

In addition, if the Board wishes to have the option to appoint a replacement, it must post a notice of vacancy in at least three conspicuous places in the District at least fifteen days before the district board makes the appointment.

II. Options of Filling the Vacancy

Government Code section 1780 provides two options for filling the vacancy: appointment by the remainder of the Board or election by the voters.

A. Appointment

Pursuant to Government Code Section 1780(a), the Board may appoint a successor within sixty days of the resignation. Therefore, the Board has until October 25th¹ to make an

¹ This is a weekend. While this date would likely be extended to the following Monday, the Board should not rely on that.

appointment. The Placer and Nevada Counties elections officials must be notified of the appointment no later than fifteen days after the appointment. (Gov. Code, § 1780(a).)

B. Election

Instead of making an appointment, the remaining members of the Board may call an election to fill the vacancy. In that case, the Board must call for such an election within sixty days of the date the Board is notified of the vacancy or the effective date of the vacancy, whichever is later. Again, this date is October 25th. This will be held on the next established election date provided in Section 1000 et seq. of Elections Code that is 130 or more days after the date the District calls the election. Under Elections Code Section 1000, the established election dates in each year are as follows:

- (a) The second Tuesday of April in each even-numbered year.
- (b) The first Tuesday after the first Monday in March of each odd-numbered year.
- (c) The first Tuesday after the first Monday in November of each year.
- (d) The first Tuesday after the first Monday in March in each even-numbered year.

Thus, assuming the Board calls the election, the election should occur on the first Tuesday after the first Monday in March next year, or March 9, 2021. It is important to note that these are the normal elections dates. Given COVID-19, there may be increased options for an all-mailed ballot election. If the Board desires to explore a potential special election, staff will work with Placer and Nevada County Elections to outline all available dates. However, dates would be in Spring 2021.²

C. Failure to Exercise Either Option

If the Board fails to appoint a replacement or call an election, the Placer County Board of Supervisors³ may fill the vacancy by appointment within ninety days of the date the District is notified of the vacancy or the Board of Supervisors may call an election to fill the vacancy. If the Placer County Board of Supervisors does not fill the vacancy or call an election, the District must call an election to fill the vacancy. (Gov. Code, § 1780(f), (g).)

² Elections Code section 1600 et seq. permits an all-mail ballot election statewide for the November 2020 election. This is limited to that election only. However, Elections Code section 4005 allows all counties to conduct all mail ballot special elections beginning in 2020 under specified conditions.

³ For multi-county agencies like the District, the county board of supervisors with the largest agency land area has the authority to appoint or call an election.

III. Length of Term

Assuming the Board decides to appoint someone to fill Director Morrison's seat, one question is whether that person will serve until the November 2020 general election or for the full remaining length of the term. On this point, the deciding issue is when the District is notified of the vacancy. If this occurs during the first half of the term and more than 130 days before the next general election, the appointee serves until the next general election. By contrast, if the District is notified after this date, the appointee serves for the remaining term of the seat. Here, it is less than 130 days from the November 2020 general election, any appointee will serve the full remaining term. If an election is called, the elected Director would also serve the remaining balance of Director Morrison's term.

IV. Next Steps

Based on the above, staff would request that the Board provide direction on next steps. Below is a bullet-point summary of the options:

- Provide direction regarding appointment or calling an election.
- If the Board wishes to accept applications and potentially appoint someone, staff would post the notice of vacancy. If posted by September 8th, the Board could make an appointment at its September Board meeting. Alternatively, appointment could be delayed until a later special meeting. An appointment would need to be made by October 25th.
- If the Board wishes to consider calling an election to fill the vacancy, staff will provide elections options and dates for the Board's consideration. This would be brought to the September Board meeting for action or could be delayed until a later special meeting. An election would need to be called by October 25th.

JOSH NELSON