

U.S. Postal Service Governors: And Then There Were None

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Background: U.S. Postal Service Board of Governors

The Board of Governors of the U.S. Postal Service (hereinafter, the Board) was created by a provision of the [Postal Reorganization Act](#) in 1970 (PRA, [39 U.S.C. §202](#)). The U.S. Postal Service (USPS) describes the Board as "[comparable to a board of directors of a private corporation](#)." Guided by [statute](#) and its [bylaws](#), the Board "directs the exercise of the powers of the Postal Service, reviews the practices and policies of the Postal Service, and directs and controls the expenditures of the Postal Service."

The Board is [composed of 11 members](#), including **9 Governors** who are appointed by the President with the advice and consent of the Senate. As noted in a [recent USPS Office of Inspector General \(USPSOIG\) white paper](#), the Postal Service, as an executive branch agency, is to be led by presidentially appointed and Senate confirmed officers. The nine Governors serve this role. The Board also includes the Postmaster General, who is appointed by the Governors, and the Deputy Postmaster General, who is appointed by the Governors and the Postmaster.

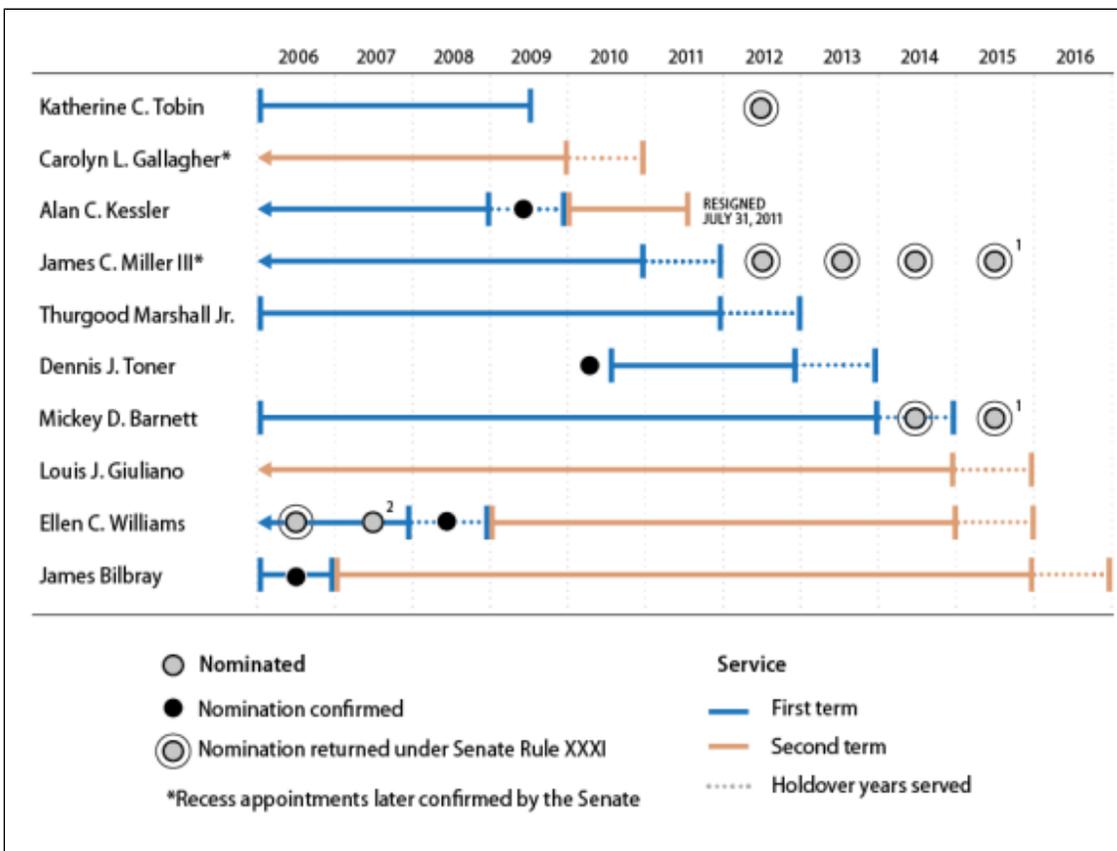
Under the PRA, Postal Governors served nine-year terms, with the first nine appointees serving staggered terms of one to nine years. The Postal Accountability and Enhancement Act (PAEA,

[P.L. 109-435](#)) reduced the Governors' terms to seven years. Governors may serve no more than two terms, but may continue to serve for up to one "holdover" year after their term expires until a successor is confirmed. Additionally, the PAEA requires that Governors represent the public interest and that at least four Governors be chosen based on their demonstrated ability to manage organizations with at least 50,000 employees. No more than five Governors may belong to the same political party.

Former Postal Governors

Currently, the Board has *no Governors*. The term of the last Governor, Chairman James H. Bilbray, expired on December 8, 2016. [Figure 1](#) depicts the terms of service for each of the 10 Governors who have served since the enactment of the PAEA.

Figure 1. Postal Governor Terms of Service Since Enactment of PAEA



Source: CRS graphic created using data received via email from U.S. Postal Service on March 16, 2016.

Notes: Graphic includes Governors serving at the time the PAEA was enacted and Governors appointed or reappointed since the PAEA was enacted. (1) These nominations were returned under Senate Rule XXXI at the conclusion of the 114th Congress in 2017. (2) This nomination was withdrawn.

On October 30, 2017, President Trump sent three [nominations to the Senate for Governors of the USPS](#). [Table 1](#) provides details on each nomination.

Table 1. Pending Nominees for Postal Governor, as of 1/11/18

| Nominee (Nomination Number) | To Replace/For Term Expiring | Nomination Received |
|---|--|------------------------|
| Robert M. Duncan (PN1188) | Thurgood Marshall, Jr., for a term expiring 12/08/2018 | 10/30/2017 |
| Robert M. Duncan (PN1189) | Reappointment, for a term expiring 12/08/2025 | 10/30/2017 |
| Calvin R. Tucker (PN1190) | Carolyn L. Gallagher, for a term expiring 12/08/2023 | 10/30/2017 |
| David Williams (PN1191) | Dennis J. Toner, for a term expiring 12/08/2019 | 10/30/2017 |

Source: [CRS, Legislation Information System \(LIS\) Nominations Database](#) (keyword search "postal").

Responsibilities of the Governors Compared with Those of the Board

Although the Board has many authorities and responsibilities, many matters are reserved for decision by the Governors alone. [Table 2](#) lists selected matters that are reserved for decision by the Governors alone and by the full Board, respectively.

Table 2. Selected Authorities and Responsibilities of the Governors and of the Board

| Selected matters reserved for decision by the Governors (39 C.F.R. §3.4) | Selected matters reserved for decision by the Board (39 C.F.R. §3.3) |
|---|---|
|---|---|

| | |
|--|-------------------------------------|
| Appointment, pay, term of service, and removal of the Postmaster General, 39 U.S.C. §202(c); Appointment and removal of USPS Inspector General 39 U.S.C. §202(e) | Adoption of the bylaws of the Board |
|--|-------------------------------------|

| | |
|---|--|
| Establishment of rates and classes of competitive products | Approval of the annual Postal Service Finance Plan, Operating Plan, and Capital Plan |
| Authorization of the Postal Service to adjust the rates and fees for market dominant products | Approval of the annual financial statements of the Postal Service following receipt of the annual report of the Postal Service's independent, certified public accounting firm |
| Authorization of the Postal Service to request that the Postal Regulatory Commission, under 39 U.S.C. §3642, change the lists of market dominant and competitive products | Authorization of the Postal Service, in consultation with the Postal Regulatory Commission, to establish service standards under 39 U.S.C. §3691 |
| Authorization of the Postal Service to file a request with the Postal Regulatory Commission for adjustment of rates on an expedited basis due to extraordinary or exceptional circumstances | Authorization of the Postal Service to request that the Postal Regulatory Commission submit an advisory opinion on a proposed change to certain postal services |
| Selection of an independent, certified public accounting firm to certify the accuracy of Postal Service financial statements as required by 39 U.S.C. §2008(e) | Approval of official statements adopting major policy positions and of official positions on legislative proposals having a major impact on the Postal Service |

The absence of all nine governors has varied impacts on actions performed by the Governors, Board, and USPS generally.

Impact on Responsibilities Reserved for the Governors

According to the [USPSOIG](#), without at least one sitting governor, USPS does not possess the legal authority to perform any of the actions in the first column of [Table 2](#). These include several decisions that must be authorized by the Governors, such as establishing rates and classes of competitive products, adjusting rates for market dominant products, and setting compensation for the Postmaster and Deputy Postmaster.

Impact on Responsibilities Reserved for the Board

Pursuant to [39 U.S.C. §205](#), Board vacancies alone do not prevent the Board from conducting its business as long as there is a quorum of members. To have a quorum, generally at least six members of the Board must be present—six Governors, or four governors with the Postmaster General and Deputy Postmaster General. The Board, however, lost its quorum when the term of former Governor Mickey D. Barnett expired on December 8, 2014, and the makeup of the Board

dropped to five members. Consequently, the Board is currently unable to make decisions regarding the matters in the second column of [Table 2](#).

According to [USPS regulations](#), the quorum requirement applies to the business of the Board, but not to the conduct of business related to those matters that are reserved for decision by the Governors alone ([Table 2](#)). While Governor Bilbray remained on the Board, he continued to act on matters reserved for the Governors. For select actions (e.g., appointing, removing, and setting compensation for the Postmaster General), an absolute majority of the Governors in office is required. The [removal of the USPS Inspector General](#) requires the "written concurrence of at least 7 Governors."

Impact on USPS Operations

The day-to-day operations of USPS are largely the responsibility of [USPS senior leadership](#) and may be less affected by the Board's loss of quorum than the Board's ability to fulfill its responsibilities. Further, prior to the loss of its quorum, the Board adopted a resolution delegating its authority to a [Temporary Emergency Committee](#) (TEC), in order to "provide for continuity of [postal] operations" in anticipation of the loss of a Board quorum. In its resolution, the Board also affirmed that "the inability of the Board to constitute a quorum does not prevent the Governors then in office from exercising those powers vested solely in the Governors, as distinguished from the Board." While the Board has the [authority](#) (with certain restrictions) to create such a committee, it is unclear to what extent the TEC may act on [matters that are explicitly reserved to the Board](#). At the time of the TEC's creation in 2014, it consisted of Postmaster General Megan Brennan; Deputy Postmaster General Ronald Stroman; Chairman of the Board of Governors Mickey Barnett; Governor James Bilbray; Governor Louis Giuliano; and Governor Ellen Williams. The TEC is currently composed of Postmaster General Megan Brennan and Deputy Postmaster General Ronald Stroman.