

REVISION TO COUNTY ELECTED OFFICES

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Gregory S. Bell

House Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions relating to the office of county surveyor.

Highlighted Provisions:

This bill:

- ▶ makes the office of county surveyor appointed rather than elected; and
- ▶ makes conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17-23-1, as last amended by Laws of Utah 2001, Chapter 241

17-53-101, as renumbered and amended by Laws of Utah 2000, Chapter 133

20A-1-508, as last amended by Laws of Utah 2006, Chapter 39

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **17-23-1** is amended to read:

17-23-1. County surveyor to be appointed -- Requirement to be licensed land surveyor -- Authority to contract with licensed land surveyor -- County surveyor duties.



28 (1) (a) ~~[The]~~ Except as provided in Subsection (2), the office of the county surveyor in
29 each county shall be filled by ~~[election and, except as provided in Subsection (1)(b), the]~~
30 appointment by:

31 (i) the county executive with the advice and consent of the county legislative body, if
32 the county operates under the county executive-council form of government under Section
33 17-52-504; or

34 (ii) the county legislative body, if the county operates under any other form of
35 government.

36 (b) The appointed county surveyor shall be a licensed professional land surveyor in the
37 state.

38 ~~[(b) In a county where the office of county surveyor is consolidated with another~~
39 ~~elected office, all county surveying work shall be performed by a licensed professional land~~
40 ~~surveyor.]~~

41 ~~[(c)]~~ (2) In a county where [there is no elected] the appointing authority under
42 Subsection (1)(a), after a reasonably diligent search, is unable to find a willing and qualified
43 person suitable to the appointing authority to appoint as county surveyor:

44 ~~[(i)]~~ (a) the [county executive or legislative body] appointing authority may, consistent
45 with Section 17-53-313, contract with a licensed professional land surveyor to perform ~~[those]~~
46 county surveyor duties;

47 ~~[(ii)]~~ (b) all county survey work shall be done by a licensed land surveyor;

48 ~~[(iii)]~~ (c) the county recorder shall assume and perform all statutory functions and
49 duties of the county surveyor related to the retention and maintenance of survey records;

50 ~~[(iv)]~~ (d) the recorder's office shall act as the county surveyor's office only for the
51 purpose of accepting, retaining, and managing county survey records;

52 ~~[(v)]~~ (e) the county shall furnish sufficient office space, furniture, stationery, and
53 record books necessary for the county recorder's office to fulfill its functions and duties under
54 Subsection ~~[(1)(c)(iv)]~~ (2)(d); and

55 ~~[(vi)]~~ (f) for purposes of this chapter, "county surveyor" means:

56 ~~[(A)]~~ (i) for purposes of the retention and management of county survey records, the
57 county recorder; and

58 ~~[(B)]~~ (ii) except as provided in Subsection ~~[(1)(c)(vi)(A)]~~ (2)(f)(i), the licensed land

59 surveyor under contract with the county to perform county surveyor duties.

60 [~~(2)~~] (3) The county surveyor shall execute:

61 (a) all orders directed to the surveyor by any court; and

62 (b) all orders of survey required by the county executive or county legislative body.

63 [~~(3)~~] (4) (a) The surveyor of each county shall:

64 (i) advise the county executive and county legislative body regarding all surveying
65 work;

66 (ii) perform or arrange for the performance of all surveying work for the county;

67 (iii) permanently keep at county government offices at the county seat a fair and
68 accurate record of all surveys made, including legal descriptions and geographic coordinates,
69 all surveys received pursuant to Section 17-23-17, and all corner files received pursuant to
70 Section 17-23-17.5;

71 (iv) number progressively all surveys received and state by whom and for whom the
72 surveys were made;

73 (v) deliver a copy of any survey to any person or court requiring the survey after the
74 payment of the fee established by the county legislative body;

75 (vi) ensure that all surveys of legal subdivisions of sections are made according to the
76 United States Manual of Surveying Instructions in effect at the time the survey is completed;

77 (vii) verify the correctness of or establish correct coordinates for all survey reference
78 monuments set in place and shown on all subdivision maps and plats which have a spatial
79 relationship with any section or quarter section corner; and

80 (viii) perform other duties required by law.

81 (b) In arranging for the performance of surveying work for the county under Subsection
82 [~~(3)~~] (4)(a)(ii), a surveyor may comply with Section 17-53-313.

83 [~~(4)~~] (5) (a) The county surveyor or [~~his~~] the county surveyor's designee shall establish
84 all corners of government surveys and reestablish all corners of government surveys where
85 corners have been destroyed and where witness markers or other evidences of the government
86 corners remain so that the corners established by government survey can be positively located.

87 (b) The corners shall be reestablished in the manner provided in Section 17-23-13 for
88 establishing corners.

89 (c) The county surveyor shall keep a separate record of the established and

90 reestablished corners of government surveys, giving the date and names of persons present and
91 shall provide those records to his successor when he vacates his office.

92 (d) Established or reestablished corners shall be recognized as the legal and permanent
93 corners.

94 [~~(5)~~] (6) The county executive or legislative body may direct the county surveyor or
95 [his] the county surveyor's staff to perform engineering and architectural work if the county
96 surveyor or [his] the county surveyor's staff is qualified and licensed to perform that work.

97 Section 2. Section **17-53-101** is amended to read:

98 **17-53-101. County officers enumerated.**

99 (1) The elected officers of a county are:

100 (a) (i) in a county operating under a county commission or expanded county
101 commission form of government, county commission members; or

102 (ii) in a county operating under one of the other forms of county government under
103 Subsection 17-52-402(1)(a), county legislative body members and the county executive;

104 (b) a county treasurer, a sheriff, a county clerk, a county auditor, a county recorder, a
105 county attorney, a district attorney in a county which is part of a prosecution district, [~~a county~~
106 ~~surveyor,~~] and a county assessor; and

107 (c) any others provided by law.

108 (2) Notwithstanding Subsection (1), in counties having a taxable value of less than
109 \$100,000,000 the county clerk shall be ex officio auditor of the county and shall perform the
110 duties of the office without extra compensation.

111 Section 3. Section **20A-1-508** is amended to read:

112 **20A-1-508. Midterm vacancies in county elected offices.**

113 (1) As used in this section:

114 (a) "County offices" includes the county executive, members of the county legislative
115 body, the county treasurer, the county sheriff, the county clerk, the county auditor, the county
116 recorder, [~~the county surveyor,~~] and the county assessor.

117 (b) "County offices" does not mean the offices of president and vice president of the
118 United States, United States senators and representatives, members of the Utah Legislature,
119 state constitutional officers, county attorneys, district attorneys, and judges.

120 (2) (a) Until a replacement is selected as provided in this section and has qualified, the

121 county legislative body shall appoint an interim replacement to fill the vacant office by
122 following the procedures and requirements of this Subsection (2).

123 (b) (i) To appoint an interim replacement, the county legislative body shall give notice
124 of the vacancy to the county central committee of the same political party of the prior office
125 holder and invite that committee to submit the names of three nominees to fill the vacancy.

126 (ii) That county central committee shall, within 30 days, submit the names of three
127 nominees for the interim replacement to the county legislative body.

128 (iii) The county legislative body shall, within 45 days after the vacancy occurs, appoint
129 one of those nominees to serve out the unexpired term.

130 (c) (i) If the county legislative body fails to appoint an interim replacement to fill the
131 vacancy within 45 days, the county clerk shall send to the governor a letter that:

132 (A) informs the governor that the county legislative body has failed to appoint a
133 replacement within the statutory time period; and

134 (B) contains the list of nominees submitted by the party central committee.

135 (ii) The governor shall appoint an interim replacement from that list of nominees to fill
136 the vacancy within 30 days after receipt of the letter.

137 (d) A person appointed as interim replacement under this Subsection (2) shall hold
138 office until their successor is elected and has qualified.

139 (3) (a) The requirements of this Subsection (3) apply to all county offices that become
140 vacant if:

141 (i) the vacant office has an unexpired term of two years or more; and

142 (ii) the vacancy occurs after the election at which the person was elected but before
143 April 10 of the next even-numbered year.

144 (b) (i) When the conditions established in Subsection (3)(a) are met, the county clerk
145 shall notify the public and each registered political party that the vacancy exists.

146 (ii) All persons intending to become candidates for the vacant office shall:

147 (A) file a declaration of candidacy according to the procedures and requirements of
148 Chapter 9, Part 2, Candidate Qualifications and Declarations of Candidacy; and

149 (B) if nominated as a party candidate or qualified as an independent or write-in
150 candidate under Chapter 8, Political Party Formation and Procedures, run in the regular general
151 election.

152 (4) (a) The requirements of this Subsection (4) apply to all county offices that become
153 vacant if:

154 (i) the vacant office has an unexpired term of two years or more; and

155 (ii) the vacancy occurs after April 9 of the next even-numbered year but more than 50
156 days before the regular primary election.

157 (b) (i) When the conditions established in Subsection (4)(a) are met, the county clerk
158 shall notify the public and each registered political party that:

159 (A) the vacancy exists; and

160 (B) identifies the date and time by which a person interested in becoming a candidate
161 must file a declaration of candidacy.

162 (ii) All persons intending to become candidates for the vacant offices shall, within five
163 days after the date that the notice is made, ending at 5 p.m. on the fifth day, file a declaration
164 of candidacy for the vacant office as required by Chapter 9, Part 2, Candidate Qualifications
165 and Declarations of Candidacy.

166 (iii) The county central committee of each party shall:

167 (A) select a candidate or candidates from among those qualified candidates who have
168 filed declarations of candidacy; and

169 (B) certify the name of the candidate or candidates to the county clerk at least 35 days
170 before the regular primary election.

171 (5) (a) The requirements of this Subsection (5) apply to all county offices that become
172 vacant:

173 (i) if the vacant office has an unexpired term of two years or more; and

174 (ii) when 50 days or less remain before the regular primary election but more than 50
175 days remain before the regular general election.

176 (b) When the conditions established in Subsection (5)(a) are met, the county central
177 committees of each political party registered under this title that wishes to submit a candidate
178 for the office shall summarily certify the name of one candidate to the county clerk for
179 placement on the regular general election ballot.

180 (6) (a) The requirements of this Subsection (6) apply to all county offices that become
181 vacant:

182 (i) if the vacant office has an unexpired term of less than two years; or

183 (ii) if the vacant office has an unexpired term of two years or more but 50 days or less
184 remain before the next regular general election.

185 (b) (i) When the conditions established in Subsection (6)(a) are met, the county
186 legislative body shall give notice of the vacancy to the county central committee of the same
187 political party as the prior office holder and invite that committee to submit the names of three
188 nominees to fill the vacancy.

189 (ii) That county central committee shall, within 30 days, submit the names of three
190 nominees to fill the vacancy to the county legislative body.

191 (iii) The county legislative body shall, within 45 days after the vacancy occurs, appoint
192 one of those nominees to serve out the unexpired term.

193 (c) (i) If the county legislative body fails to appoint a person to fill the vacancy within
194 45 days, the county clerk shall send to the governor a letter that:

195 (A) informs the governor that the county legislative body has failed to appoint a person
196 to fill the vacancy within the statutory time period; and

197 (B) contains the list of nominees submitted by the party central committee.

198 (ii) The governor shall appoint a person to fill the vacancy from that list of nominees to
199 fill the vacancy within 30 days after receipt of the letter.

200 (d) A person appointed to fill the vacancy under this Subsection (6) shall hold office
201 until their successor is elected and has qualified.

202 (7) Except as otherwise provided by law, the county legislative body may appoint
203 replacements to fill all vacancies that occur in those offices filled by appointment of the county
204 legislative body.

205 (8) Nothing in this section prevents or prohibits independent candidates from filing a
206 declaration of candidacy for the office within the same time limits.

207 (9) (a) Each person elected under Subsection (3), (4), or (5) to fill a vacancy in a
208 county office shall serve for the remainder of the unexpired term of the person who created the
209 vacancy and until a successor is elected and qualified.

210 (b) Nothing in this section may be construed to contradict or alter the provisions of
211 Section 17-16-6.

Legislative Review Note
as of 1-4-08 6:48 AM

Office of Legislative Research and General Counsel

S.B. 153 - Revision to County Elected Offices

Fiscal Note

2008 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
