

1 **GUBERNATORIAL APPOINTMENT POWERS**

2 **AMENDMENTS**

3 2010 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Curtis S. Bramble**

6 House Sponsor: Patrick Painter

7

LONG TITLE

8 **General Description:**

9
10 This bill addresses the effect of the Senate's lack of consent to a gubernatorial
11 appointment within certain time periods.

12 **Highlighted Provisions:**

13 This bill:

14 ▶ provides that a gubernatorial nomination for which Senate consent is required is
15 considered rejected if not acted upon within:

- 16 • 90 days for permanent appointments; and
- 17 • 30 days for certain interim appointments; and

18 ▶ makes technical changes.

19 **Monies Appropriated in this Bill:**

20 None

21 **Other Special Clauses:**

22 None

23 **Utah Code Sections Affected:**

24 AMENDS:

25 **67-1-1.5**, as last amended by Laws of Utah 2002, Chapter 176

26

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



28 Section 1. Section **67-1-1.5** is amended to read:

29 **67-1-1.5. Gubernatorial appointment powers.**

30 (1) As used in this section:

31 (a) "Board member" means each gubernatorial appointee to any state board, committee,
32 commission, council, or authority.

33 (b) "Executive branch management position" includes department executive directors,
34 division directors, and any other administrative position in state government where the person
35 filling the position:

36 (i) works full-time performing managerial and administrative functions;

37 (ii) is appointed by the governor with the consent of the Senate.

38 (c) (i) "Executive branch policy position" means any person other than a person filling
39 an executive branch management position, who is appointed by the governor with the consent
40 of the Senate.

41 (ii) "Executive branch policy position" includes each member of any state board and
42 commission appointed by the governor with the consent of the Senate.

43 (2) (a) Whenever a vacancy occurs in any executive branch policy position or in any
44 executive branch management position, the governor shall submit the name of a nominee to the
45 Senate for consent no later than three months after the ~~[date]~~ day on which the vacancy
46 ~~[occurred]~~ occurs.

47 (b) If the Senate fails to consent to that person~~;~~ within 90 days after the day on which
48 the governor submits the nominee's name to the Senate for consent:

49 (i) the nomination is considered rejected; and

50 (ii) the governor shall ~~Š~~→ **resubmit the name of the nominee described in Subsection**
50a **(2)(a) or ←Š** submit the name of ~~[another]~~ a different nominee to the Senate

51 for consent no later than ~~Ĥ~~→ [one month] sixty days ←Ĥ after the date on which the nomination
51a was rejected by the

52 Senate.

53 (3) (a) Whenever a vacancy occurs in any executive branch management position, the
54 governor may either:

55 (i) appoint an interim manager who meets the qualifications of the vacant position to
56 exercise the powers and duties of the vacant position for three months, pending consent of a
57 person to permanently fill that position by the Senate; or

58 (ii) appoint an interim manager who does not meet the qualifications of the vacant

59 position and submit that person's name to the Senate for consent as interim manager within one
60 month of the appointment.

61 (b) If the Senate fails to consent to the interim manager appointed under Subsection
62 (3)(a)(ii)[;] within 30 days after the day on which the governor submits the nominee's name to
63 the Senate for consent:

64 (i) the nomination is considered rejected; and

65 (ii) the governor may ~~H→~~ :

65a (A) (I) reappoint the interim manager to whom the Senate failed to consent within 30
65b days; and

65c (II) resubmit the name of the person described in Subsection (3)(b)(ii)(A)(I) to the
65d Senate for consent as interim manager; or

65e (B) ~~←H~~ appoint [another] a different interim manager under Subsection
66 (3)(a).

67 (c) If, after an interim manager has served three months, no one has been appointed and
68 received Senate consent to permanently fill the position, the governor shall:

69 (i) appoint a new interim manager who meets the qualifications of the vacant position
70 to exercise the powers and duties of the vacant position for three months; or

71 (ii) submit the name of the first interim manager to the Senate for consent as an interim
72 manager for a three-month term.

73 (d) ~~H→~~ [~~†~~] ~~←H~~ If the Senate fails to consent to a nominee whose name is submitted under
74 Subsection (3)(c)(ii) within 30 days after the day on which the governor submits the name to
75 the Senate ~~H→~~ [;] :

75a (i) ~~←H~~ the nomination is considered rejected ~~H→~~ [;] ; and ~~←H~~

76 (ii) ~~H→~~ [~~If the Senate rejects the governor's appointment of an interim manager;~~] ~~←H~~ the
77 governor shall ~~H→~~ :

77a (A)(I) reappoint the person described in Subsection (3)(d); and

77b (II) resubmit the name of the person described in Subsection (3)(d) to the Senate for
77c consent as interim manager; or

77d (B) ~~←H~~ appoint a different interim manager in the manner required by Subsection (3)(a).

78 (4) The governor may not make a temporary appointment to fill a vacant executive
79 branch policy position.

80 (5) (a) Before appointing any person to serve as a board member, the governor shall
81 ask the person whether or not the person wishes to receive per diem, expenses, or both for
82 serving as a board member.

83 (b) If the person declines to receive per diem, expenses, or both, the governor shall
84 notify the agency administering the board, commission, committee, council, or authority and
85 direct the agency to implement the board member's request.

86 (6) A gubernatorial nomination upon which the Senate has not acted to give consent or
87 refuse to give consent is void when a vacancy in the office of governor occurs.

Legislative Review Note
as of 1-18-10 3:25 PM

Office of Legislative Research and General Counsel

S.B. 93 - Gubernatorial Appointment Powers Amendments

Fiscal Note

2010 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.
