

**MIDTERM VACANCIES IN MUNICIPAL OFFICES**

2011 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Kraig Powell**

Senate Sponsor: Kevin T. Van Tassell

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**LONG TITLE**

**General Description:**

This bill modifies the Election Code by amending provisions for filling a vacancy in a municipality.

**Highlighted Provisions:**

This bill:

- ▶ repeals a provision that prohibits a member of a municipal legislative body from participating in the process to fill a vacancy in the mayor position if that member is being considered to fill the vacancy; and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**10-3-507**, as last amended by Laws of Utah 2008, Chapter 19

**20A-1-510**, as last amended by Laws of Utah 2008, Chapter 19

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

Section 1. Section **10-3-507** is amended to read:



28 **10-3-507. Minimum vote required.**

29 (1) The minimum number of yes votes required to pass any ordinance or resolution, or  
30 to take any action by the council, unless otherwise prescribed by law, is a majority of ~~[a~~ the  
31 voting members of the council, without considering any vacancy in the council.

32 (2) (a) Any ordinance, resolution, or motion of the council having fewer favorable  
33 votes than required in this section is defeated and invalid.

34 (b) Notwithstanding Subsection (2)(a), a council meeting may be adjourned to a  
35 specific time by a majority vote of the council even though the majority vote is less than that  
36 required in this section.

37 (3) A majority of the council members, regardless of number, may fill any vacancy in  
38 the council as provided under Section 20A-1-510.

39 Section 2. Section **20A-1-510** is amended to read:

40 **20A-1-510. Midterm vacancies in municipal offices.**

41 (1) (a) Except as otherwise provided in Subsection (2), if any vacancy occurs in the  
42 office of municipal executive or member of a municipal legislative body, the municipal  
43 legislative body shall appoint a registered voter in the municipality who meets the  
44 qualifications for office established in Section 10-3-301 to fill the unexpired term of the office  
45 vacated until the January following the next municipal election.

46 (b) Before acting to fill the vacancy, the municipal legislative body shall:

47 (i) give public notice of the vacancy at least two weeks before the municipal legislative  
48 body meets to fill the vacancy; and

49 (ii) identify, in the notice:

50 (A) the date, time, and place of the meeting where the vacancy will be filled; ~~[and]~~

51 (B) the person to whom a person interested in being appointed to fill the vacancy may  
52 submit ~~[his]~~ the interested person's name for consideration; and ~~[any]~~

53 (C) the deadline for submitting [it] an interested person's name.

54 (c) (i) If, for any reason, the municipal legislative body does not fill the vacancy within  
55 30 days after the vacancy occurs, the municipal legislative body shall ~~[vote upon]~~ fill the  
56 vacancy from among the names that have been submitted.

57 (ii) The two persons having the highest number of votes of the municipal legislative  
58 body after a first vote is taken shall appear before the municipal legislative body and the

59 municipal legislative body shall vote again.

60 (iii) If neither candidate receives a majority vote of the municipal legislative body at  
61 that time, the vacancy shall be filled by lot in the presence of the municipal legislative body.

62 (2) (a) A vacancy in the office of municipal executive or member of a municipal  
63 legislative body shall be filled by an interim appointment, followed by an election to fill a  
64 two-year term, if:

65 (i) the vacancy occurs, or a letter of resignation is received, by the municipal executive  
66 at least 14 days before the deadline for filing for election in an odd-numbered year; and

67 (ii) two years of the vacated term will remain after the first Monday of January  
68 following the next municipal election.

69 (b) In appointing an interim replacement, the municipal legislative body shall comply  
70 with the notice requirements of this section.

71 [~~(3)~~ A member of a municipal legislative body may not participate in any part of the  
72 process established in this section to fill a vacancy if that member is being considered for  
73 appointment to fill the vacancy.]

74 [~~(4)~~] (3) (a) In a municipality operating under the council-mayor form of government,  
75 as defined in Section 10-3b-102:

76 (i) the council may appoint a person to fill a vacancy in the office of mayor before the  
77 effective date of the mayor's resignation by making the effective date of the appointment the  
78 same as the effective date of the mayor's resignation; and

79 (ii) if a vacancy in the office of mayor occurs before the effective date of an  
80 appointment under Subsection (1) or (2) to fill the vacancy, the council chair shall serve as  
81 acting mayor during the time between the creation of the vacancy and the effective date of the  
82 appointment to fill the vacancy.

83 (b) While serving as acting mayor under Subsection [~~(4)~~] (3)(a)(ii), the council chair  
84 continues to:

85 (i) act as a council member; and

86 (ii) vote at council meetings.

**Legislative Review Note**  
**as of 2-8-11 11:01 AM**

**Office of Legislative Research and General Counsel**

# FISCAL NOTE

H.B. 305

SHORT TITLE: **Midterm Vacancies in Municipal Offices**

SPONSOR: **Powell, K.**

2011 GENERAL SESSION, STATE OF UTAH

STATE GOVERNMENT (UCA 36-12-13(2)(b))

Enactment of this bill likely will not materially impact the state budget.

LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

Enactment of this bill likely will not result in direct, measurable costs for local governments.

DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d))

Enactment of this bill likely will not result in direct, measurable expenditures by Utah residents or businesses.