

**Representative Christopher N. Herrod** proposes the following substitute bill:

**MILITARY LEAVE FOR AN ELECTED OFFICIAL OF A  
POLITICAL SUBDIVISION**

2011 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: John L. Valentine**

House Sponsor: Christopher N. Herrod

Cosponsor: Curtis S. Bramble

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**LONG TITLE**

**General Description:**

This bill amends Title 20A, Election Code, to authorize an elected official of a political subdivision to take military leave.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ authorizes an elected official of a political subdivision to take military leave;
- ▶ authorizes the governing body to:
  - appoint a temporary replacement for an elected official who takes military leave;
  - establish the distribution of the emoluments of the office between the elected official and the temporary replacement; and
  - establish an application process; and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**



26 This bill provides an immediate effective date.

27 **Utah Code Sections Affected:**

28 ENACTS:

29 **20A-1-513**, Utah Code Annotated 1953

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

32 Section 1. Section **20A-1-513** is enacted to read:

33 **Part 5. Candidate Vacancy and Vacancy and Temporary Absence in Elected Office**

34 **20A-1-513. Temporary absence in elected office of a political subdivision for**  
35 **military service.**

36 (1) As used in this section:

37 (a) "Armed forces" means:

38 (i) the Army of the United States;

39 (ii) the United States Navy;

40 (iii) the United States Air Force;

41 (iv) the Marine Corps;

42 (v) the Coast Guard;

43 (vi) the National Guard; or

44 (vii) a reserve or auxiliary of an entity listed in Subsections (1)(a)(i) through (vi).

45 (b) (i) "Elected official" is a person who holds an office of a political subdivision that  
46 is required by law to be filled by an election.

47 (ii) "Elected official" includes a person who is appointed to fill a vacancy in an office  
48 described in Subsection (1)(b)(i).

49 (c) (i) "Military leave" means the temporary absence from an office:

50 (A) by an elected official called to active, full-time duty in the armed forces; and

51 (B) for a period of time that exceeds 30 days and does not exceed 400 days.

52 (ii) "Military leave" includes the time a person described in Subsection (1)(c)(i) spends

53 for:

54 (A) out processing;

55 (B) an administrative delay;

56 (C) accrued leave; and

57 (D) on rest and recuperation leave program of the armed forces.

58 (d) "Political subdivision's governing body" means:

59 (i) for a county, city, or town, the legislative body of the county, city, or town;

60 (ii) for a local district, the board of trustees of the local district;

61 (iii) for a local school district, the local school board;

62 (iv) for a special service district;

63 (A) the legislative body of the county, city, or town that established the special service  
64 district, if no administrative control board has been appointed under Section 17D-1-301; or

65 (B) the administrative control board of the special service district, if an administrative  
66 control board has been appointed under Section 17D-1-301; and

67 (v) for a political subdivision not listed in Subsections (1)(d)(i) through (iv), the body  
68 that governs the affairs of the political subdivision.

69 (e) "Temporary replacement" means the person appointed by the political subdivision's  
70 governing body in accordance with this section to exercise the powers and duties of the office  
71 of the elected official who takes military leave.

72 (2) An elected official creates a vacancy in the elected official's office if the elected  
73 official is called to active, full-time duty in the armed forces unless the elected official takes  
74 military leave as provided by this section.

75 (3) An elected official may take military leave if the elected official submits to the  
76 political subdivision's governing body written notice of the intent to take military leave and the  
77 expected duration of the military leave, by the later of:

78 (a) 21 days before the military leave begins; or

79 (b) the next business day after which the elected official receives an order from the  
80 armed forces calling the elected official to active, full-time duty.

81 (4) An elected official's military leave:

82 (a) begins the day on which the elected official begins active, full-time duty in the  
83 armed forces; and

84 (b) ends the sooner of:

85 (i) the expiration of the elected official's term of office; or

86 (ii) the day on which the elected official ends active, full-time duty in the armed forces.

87 (5) A temporary replacement shall:

88 (a) meet the qualifications required to hold the office; and

89 (b) be appointed:

90 (i) before the day on which the military leave begins; and

91 (ii) (A) in the same manner as provided by this part for a midterm vacancy if a  
92 registered political party nominated the elected official who takes military leave as a candidate  
93 for the office; or

94 (B) by the political subdivision's governing body after submitting an application in  
95 accordance with Subsection (8)(b) if a registered political party did not nominate the elected  
96 official who takes military leave as a candidate for office.

97 (6) If a political subdivision's governing body does not appoint a temporary  
98 replacement before the day on which the military leave begins, the elected official's office shall  
99 remain vacant until the day on which the military leave ends.

100 (7) (a) A temporary replacement shall exercise the powers and duties of the office for  
101 which the temporary replacement is appointed for the duration of the elected official's military  
102 leave.

103 (b) An elected official may not exercise the powers or duties of the office while on  
104 military leave.

105 (8) The political subdivision's governing body shall establish:

106 (a) the distribution of the emoluments of the office between the elected official and the  
107 temporary replacement; and

108 (b) an application form and the date by which a person shall submit the application to  
109 be considered by the political subdivision's governing body for appointment as a temporary  
110 replacement.

111 **Section 2. Effective date.**

112 If approved by two-thirds of all the members elected to each house, this bill takes effect  
113 upon approval by the governor, or the day following the constitutional time limit of Utah  
114 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,  
115 the date of veto override.

# FISCAL NOTE

S.B. 66 1st Sub. (Green)

SHORT TITLE: Military Leave for an Elected Official of a Political Subdivision

SPONSOR: Herrod, C.

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.