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MUNICIPAL OFFICE MODIFICATIONS
2024 GENERAL SESSION
STATE OF UTAH
Chief Sponsor: Douglas R. Welton
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill modifies provisions relating to the filling of a mid-term vacancy in a municipal office.

Highlighted Provisions:

This bill:

▸ modifies language relating to the process for filling a mid-term vacancy in a municipal office.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-3b-302, as enacted by Laws of Utah 2008, Chapter 19

20A-1-510, as last amended by Laws of Utah 2023, Chapter 46

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

Section 1. Section **10-3b-302** is amended to read:

10-3b-302 . Mayor in six-member council form of government -- Mayor pro tempore.

(1) The mayor in a municipality operating under a six-member council form of municipal government:

(a) is, except as provided in Subsection (1)(b), a nonvoting member of the council;

(b) votes as a voting member of the council:

(i) on each matter for which there is a tie vote of the other council members present at

- 29 a council meeting, including a tie vote to fill a mid-term vacancy under Section
 30 20A-1-510; or
- 31 (ii) when the council is voting on:
- 32 (A) whether to appoint or dismiss a municipal manager; or
- 33 (B) an ordinance that enlarges or restricts the mayor's powers, duties, or functions;
- 34 (c) is the chair of the council and presides at all council meetings;
- 35 (d) exercises ceremonial functions for the municipality;
- 36 (e) may not veto an ordinance, tax levy, or appropriation passed by the council;
- 37 (f) except as modified by ordinance under Subsection 10-3b-303(2), has the powers and
 38 duties described in Section 10-3b-104; and
- 39 (g) may, within budget constraints, appoint one or more administrative assistants to the
 40 mayor.
- 41 (2) (a) If the mayor is absent or unable or refuses to act, the council may elect a member
 42 of the council as mayor pro tempore, to:
- 43 (i) preside at a council meeting; and
- 44 (ii) perform, during the mayor's absence, disability, or refusal to act, the duties and
 45 functions of mayor.
- 46 (b) The municipal clerk or recorder shall enter in the minutes of the council meeting the
 47 election of a council member as mayor pro tempore under Subsection (2)(a).

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

49 **20A-1-510 . Midterm vacancies in municipal offices.**

- 50 (1) (a) As used in this section:
- 51 (i) "Vacancy," subject to Subsection (1)(a)(ii), means the same as that term is defined
 52 in Section 20A-1-102.
- 53 (ii) "Vacancy," if due to resignation, occurs on the effective date of the resignation.
- 54 (b) Except as otherwise provided in this section, if any vacancy occurs in the office of
 55 municipal executive or member of a municipal legislative body, the municipal
 56 legislative body shall, within 30 calendar days after the day on which the vacancy
 57 occurs, appoint a registered voter in the municipality who meets the qualifications for
 58 office described in Section 10-3-301 to fill the unexpired term of the vacated office.
- 59 (c) Before acting to fill the vacancy, the municipal legislative body shall:
- 60 (i) give public notice of the vacancy at least 14 calendar days before the day on
 61 which the municipal legislative body meets to fill the vacancy;
- 62 (ii) identify, in the notice:

- 63 (A) the date, time, and place of the meeting where the vacancy will be filled;
64 (B) the person to whom an individual interested in being appointed to fill the
65 vacancy may submit the interested individual's name for consideration; and
66 (C) the deadline for submitting an interested individual's name; and
67 (iii) in an open meeting, interview each individual whose name is submitted for
68 consideration, and who meets the qualifications for office, regarding the
69 individual's qualifications.
- 70 (d) (i) The municipal legislative body shall take an initial vote to fill the vacancy
71 from among the names of the candidates interviewed under Subsection (1)(c)(iii).
72 (ii) (A) If no candidate receives a majority vote of the municipal legislative body
73 in the initial vote described in Subsection (1)(d)(i), the two candidates that
74 received the most votes in the initial vote, as determined by the tie-breaking
75 procedures described in Subsections (1)(d)(ii)(B) through (D) if necessary,
76 shall be placed before the municipal legislative body for a second vote to fill
77 the vacancy.
78 (B) If the initial vote results in a tie for second place, the candidates tied for
79 second place shall be reduced to one by a coin toss conducted in accordance
80 with Subsection (1)(d)(ii)(D), and the second vote described in Subsection
81 (1)(d)(ii)(A) shall be between the candidate that received the most votes in the
82 initial vote and the candidate that wins the coin toss described in this
83 Subsection (1)(d)(ii)(B).
84 (C) If the initial vote results in a tie among three or more candidates for first place,
85 the candidates tied for first place shall be reduced to two by a coin toss
86 conducted in accordance with Subsection (1)(d)(ii)(D), and the second vote
87 described in Subsection (1)(d)(ii)(A) shall be between the two candidates that
88 remain after the coin toss described in this Subsection (1)(d)(ii)(C).
89 (D) A coin toss required under this Subsection (1)(d) shall be conducted by the
90 municipal clerk or recorder in the presence of the municipal legislative body.
- 91 (iii) If, in the second vote described in Subsection (1)(d)(ii)(A), neither candidate
92 receives a majority vote of the municipal legislative body, the vacancy shall be
93 determined by a coin toss between the two candidates in accordance with
94 Subsection (1)(d)(ii)(D).
- 95 (e) If the municipal legislative body does not timely comply with Subsections (1)(b)
96 through (d), the municipal clerk or recorder shall immediately notify the lieutenant

97 governor.

98 (f) After receiving notice that a municipal legislative body has failed to timely comply
99 with Subsections (1)(b) through (d), the lieutenant governor shall:

100 (i) notify the municipal legislative body of the violation; and

101 (ii) direct the municipal legislative body to, within 30 calendar days after the day on
102 which the lieutenant governor provides the notice described in this Subsection
103 (1)(f), appoint an eligible individual to fill the vacancy in accordance with
104 Subsections (1)(c) and (d).

105 (g) If the municipality fails to timely comply with a directive described in Subsection
106 (1)(f):

107 (i) the lieutenant governor shall notify the governor of the municipality's failure to fill
108 the vacancy; and

109 (ii) the governor shall, within 45 days after the day on which the governor receives
110 the notice described in Subsection (1)(g)(i), provide public notice soliciting
111 candidates to fill the vacancy in accordance with Subsection (1)(c) and appoint an
112 individual to fill the vacancy.

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

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

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

121 (b) In appointing an interim replacement, the municipal legislative body shall:

122 (i) comply with the notice requirements of this section; and

123 (ii) in an open meeting, interview each individual whose name is submitted for
124 consideration, and who meets the qualifications for office, regarding the
125 individual's qualifications.

126 (3) (a) In a municipality operating under the council-mayor form of government, as
127 defined in Section 10-3b-102:

128 (i) the council may appoint an individual to fill a vacancy in the office of mayor
129 before the effective date of the mayor's resignation by making the effective date of
130 the appointment the same as the effective date of the mayor's resignation; and

- 131 (ii) if a vacancy in the office of mayor occurs before the effective date of an
132 appointment under Subsection (1) or (2) to fill the vacancy, the remaining council
133 members, by majority vote, shall appoint a council member to serve as acting
134 mayor during the time between the creation of the vacancy and the effective date
135 of the appointment to fill the vacancy.
- 136 (b) A council member serving as acting mayor under Subsection (3)(a)(ii) continues to:
137 (i) act as a council member; and
138 (ii) vote at council meetings.
- 139 (4) (a) (i) For a vacancy of a member of a municipal legislative body as described in
140 this section, the municipal legislative body member whose resignation creates the
141 vacancy on the municipal legislative body may:
142 (A) interview an individual whose name is submitted for consideration under
143 Subsection (1)(c)(iii) or (2)(b)(ii); and
144 (B) vote on the appointment of an individual to fill the vacancy.
145 (ii) Notwithstanding Subsection (4)(a)(i), a member of a legislative body who is
146 removed from office in accordance with state law may not cast a vote under
147 Subsection (4)(a)(i).
- 148 (b) A member of a municipal legislative body who submits his or her resignation to the
149 municipal legislative body may not rescind the resignation.
- 150 (c) A member of a municipal legislative body may not vote on an appointment under
151 this section for himself or herself to fill a vacancy in the municipal legislative body.
- 152 [~~(5) In a municipality operating under the six-member council form of government or the~~
153 ~~council-manager form of government, defined in Subsection 10-3b-103(7), if the voting~~
154 ~~members of the city council reach a tie vote on a matter of filling a vacancy, the mayor~~
155 ~~may vote to break the tie.]~~
- 156 [~~(6)~~ (5) In a municipality operating under the council-mayor form of government, the
157 mayor may not:
158 (a) participate in the vote to fill a vacancy;
159 (b) veto a decision of the council to fill a vacancy; or
160 (c) vote in the case of a tie.
- 161 [~~(7)~~ (6) A mayor whose resignation from the municipal legislative body is due to election
162 or appointment as mayor may, in the case of a tie, participate in the vote under this
163 section.
- 164 [~~(8)~~ (7) A municipal legislative body may, consistent with the provisions of state law, adopt

165 procedures governing the appointment, interview, and voting process for filling
166 vacancies in municipal offices.

167 Section 3. **Effective date.**

168 This bill takes effect on May 1, 2024.