

**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.**



28 (1) The mayor in a municipality operating under a six-member council form of  
29 municipal government:  
30 (a) is, except as provided in Subsection (1)(b), a nonvoting member of the council;  
31 (b) votes as a voting member of the council:  
32 (i) on each matter for which there is a tie vote of the other council members present at a  
33 council meeting, including a tie vote to fill a mid-term vacancy under Section [20A-1-510](#); or  
34 (ii) when the council is voting on:  
35 (A) whether to appoint or dismiss a municipal manager; or  
36 (B) an ordinance that enlarges or restricts the mayor's powers, duties, or functions;  
37 (c) is the chair of the council and presides at all council meetings;  
38 (d) exercises ceremonial functions for the municipality;  
39 (e) may not veto an ordinance, tax levy, or appropriation passed by the council;  
40 (f) except as modified by ordinance under Subsection [10-3b-303\(2\)](#), has the powers  
41 and duties described in Section [10-3b-104](#); and  
42 (g) may, within budget constraints, appoint one or more administrative assistants to the  
43 mayor.

44 (2) (a) If the mayor is absent or unable or refuses to act, the council may elect a  
45 member of the council as mayor pro tempore, to:

46 (i) preside at a council meeting; and  
47 (ii) perform, during the mayor's absence, disability, or refusal to act, the duties and  
48 functions of mayor.

49 (b) The municipal clerk or recorder shall enter in the minutes of the council meeting  
50 the election of a council member as mayor pro tempore under Subsection (2)(a).

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

52 **20A-1-510. Midterm vacancies in municipal offices.**

53 (1) (a) As used in this section:

54 (i) "Vacancy," subject to Subsection (1)(a)(ii), means the same as that term is defined  
55 in Section [20A-1-102](#).

56 (ii) "Vacancy," if due to resignation, occurs on the effective date of the resignation.

57 (b) Except as otherwise provided in this section, if any vacancy occurs in the office of  
58 municipal executive or member of a municipal legislative body, the municipal legislative body

59 shall, within 30 calendar days after the day on which the vacancy occurs, appoint a registered  
60 voter in the municipality who meets the qualifications for office described in Section 10-3-301  
61 to fill the unexpired term of the vacated office.

62 (c) Before acting to fill the vacancy, the municipal legislative body shall:

63 (i) give public notice of the vacancy at least 14 calendar days before the day on which  
64 the municipal legislative body meets to fill the vacancy;

65 (ii) identify, in the notice:

66 (A) the date, time, and place of the meeting where the vacancy will be filled;

67 (B) the person to whom an individual interested in being appointed to fill the vacancy  
68 may submit the interested individual's name for consideration; and

69 (C) the deadline for submitting an interested individual's name; and

70 (iii) in an open meeting, interview each individual whose name is submitted for  
71 consideration, and who meets the qualifications for office, regarding the individual's  
72 qualifications.

73 (d) (i) The municipal legislative body shall take an initial vote to fill the vacancy from  
74 among the names of the candidates interviewed under Subsection (1)(c)(iii).

75 (ii) (A) If no candidate receives a majority vote of the municipal legislative body in the  
76 initial vote described in Subsection (1)(d)(i), the two candidates that received the most votes in  
77 the initial vote, as determined by the tie-breaking procedures described in Subsections  
78 (1)(d)(ii)(B) through (D) if necessary, shall be placed before the municipal legislative body for  
79 a second vote to fill the vacancy.

80 (B) If the initial vote results in a tie for second place, the candidates tied for second  
81 place shall be reduced to one by a coin toss conducted in accordance with Subsection  
82 (1)(d)(ii)(D), and the second vote described in Subsection (1)(d)(ii)(A) shall be between the  
83 candidate that received the most votes in the initial vote and the candidate that wins the coin  
84 toss described in this Subsection (1)(d)(ii)(B).

85 (C) If the initial vote results in a tie among three or more candidates for first place, the  
86 candidates tied for first place shall be reduced to two by a coin toss conducted in accordance  
87 with Subsection (1)(d)(ii)(D), and the second vote described in Subsection (1)(d)(ii)(A) shall  
88 be between the two candidates that remain after the coin toss described in this Subsection  
89 (1)(d)(ii)(C).

90 (D) A coin toss required under this Subsection (1)(d) shall be conducted by the  
91 municipal clerk or recorder in the presence of the municipal legislative body.

92 (iii) If, in the second vote described in Subsection (1)(d)(ii)(A), neither candidate  
93 receives a majority vote of the municipal legislative body, the vacancy shall be determined by a  
94 coin toss between the two candidates in accordance with 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 governor.

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

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

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

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

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

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

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

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

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

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

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

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

121 qualifications.

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

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

127 (ii) if a vacancy in the office of mayor occurs before the effective date of an  
128 appointment under Subsection (1) or (2) to fill the vacancy, the remaining council members, by  
129 majority vote, shall appoint a council member to serve as acting mayor during the time between  
130 the creation of the vacancy and the effective date of the appointment to fill the vacancy.

131 (b) A council member serving as acting mayor under Subsection (3)(a)(ii) continues to:

132 (i) act as a council member; and

133 (ii) vote at council meetings.

134 (4) (a) (i) For a vacancy of a member of a municipal legislative body as described in  
135 this section, the municipal legislative body member whose resignation creates the vacancy on  
136 the municipal legislative body may:

137 (A) interview an individual whose name is submitted for consideration under  
138 Subsection (1)(c)(iii) or (2)(b)(ii); and

139 (B) vote on the appointment of an individual to fill the vacancy.

140 (ii) Notwithstanding Subsection (4)(a)(i), a member of a legislative body who is  
141 removed from office in accordance with state law may not cast a vote under Subsection  
142 (4)(a)(i).

143 (b) A member of a municipal legislative body who submits his or her resignation to the  
144 municipal legislative body may not rescind the resignation.

145 (c) A member of a municipal legislative body may not vote on an appointment under  
146 this section for himself or herself to fill a vacancy in the municipal legislative body.

147 ~~[(5) In a municipality operating under the six-member council form of government or~~  
148 ~~the council-manager form of government, defined in Subsection 10-3b-103(7), if the voting~~  
149 ~~members of the city council reach a tie vote on a matter of filling a vacancy, the mayor may~~  
150 ~~vote to break the tie.]~~

151 ~~[(6) (5) In a municipality operating under the council-mayor form of government, the~~

152 mayor may not:

153 (a) participate in the vote to fill a vacancy;

154 (b) veto a decision of the council to fill a vacancy; or

155 (c) vote in the case of a tie.

156 [~~7~~] (6) A mayor whose resignation from the municipal legislative body is due to  
157 election or appointment as mayor may, in the case of a tie, participate in the vote under this  
158 section.

159 [~~8~~] (7) A municipal legislative body may, consistent with the provisions of state law,  
160 adopt procedures governing the appointment, interview, and voting process for filling  
161 vacancies in municipal offices.

162 Section 3. **Effective date.**

163 This bill takes effect on May 1, 2024.