

1 **Elected Official Vacancy Modifications**

2025 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Andrew Stoddard**

Senate Sponsor: Karen Kwan

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3 **LONG TITLE**

4 **General Description:**

5 This bill addresses midterm vacancies in municipal offices.

6 **Highlighted Provisions:**

7 This bill:

- 8 ▶ modifies procedures in the event of a tie among three or more candidates; and
- 9 ▶ defines terms.

10 **Money Appropriated in this Bill:**

11 None

12 **Other Special Clauses:**

13 None

14 **Utah Code Sections Affected:**

15 AMENDS:

16 **20A-1-510**, as last amended by Laws of Utah 2024, Chapters 438, 450

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

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

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

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

22 (i) "Game of chance" means a game that has been chosen by the municipal legislative  
23 body in which:

24 (A) the outcome is determined by chance; and

25 (B) each participant has equal odds of winning.

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

28 [(i)] (B) "Vacancy," if due to resignation, occurs on the effective date of the  
29 resignation.

30 (b) Except as otherwise provided in this section, if any vacancy occurs in the office of

31 municipal executive or member of a municipal legislative body, the municipal  
 32 legislative body shall, within 30 calendar days after the day on which the vacancy  
 33 occurs, appoint a registered voter in the municipality who meets the qualifications for  
 34 office described in Section 10-3-301 to fill the unexpired term of the vacated office.

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

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

38 (ii) identify, in the notice:

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

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

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

43 (iii) in an open meeting, interview each individual whose name is submitted for  
 44 consideration, and who meets the qualifications for office, regarding the  
 45 individual's qualifications ~~;~~ and

46 (iv) select a game of chance, by resolution or ordinance, prior to the meeting  
 47 described in Subsection (1)(c)(iii), to be used in the event of a tie with three or  
 48 more candidates.

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

51 ~~(+)(e)(A)~~ (i) If no candidate receives a majority vote of the municipal legislative  
 52 body in the initial vote described in Subsection ~~(+)(d)(+)~~ (1)(d), the two  
 53 candidates that received the most votes in the initial vote, as determined by the  
 54 tie-breaking procedures described in Subsections ~~(+)(d)(ii)(B) through (D)-~~  
 55 (1)(e)(ii) through (v) if necessary, shall be placed before the municipal legislative  
 56 body for a second vote to fill the vacancy.

57 ~~(B)~~ (ii) If the initial vote results in a tie between two candidates for second place, the  
 58 candidates tied for second place shall be reduced to one by a coin toss conducted  
 59 in accordance with Subsection ~~(+)(d)(ii)(D)-~~ (1)(e)(iv), and the second vote  
 60 described in Subsection ~~(+)(d)(ii)(A)-~~ (1)(e)(i) shall be between the candidate that  
 61 received the most votes in the initial vote and the candidate that wins the coin toss  
 62 described in this Subsection ~~(+)(d)(ii)(B)-~~ (1)(e)(ii).

63 ~~(C)~~ (iii) If the initial vote results in a tie among three or more candidates ~~for first~~  
 64 ~~place, the candidates tied for first place~~ , the tied candidates shall be reduced [to

65 ~~two by a coin toss conducted in accordance with Subsection (1)(d)(ii)(D)]~~ by a  
66 game of chance conducted in accordance with Subsection (1)(e)(iv), and the  
67 second vote described in Subsection [(1)(d)(ii)(A)] (1)(e)(i) shall be between:  
68 (A) in the event of a tie for first place, the two candidates that remain after the [  
69 coin toss] game of chance described in this Subsection [(1)(d)(ii)(C);] (1)(e)(iii);  
70 or  
71 (B) in the event of a tie for second place, the candidate that received the most  
72 votes in the initial vote and the candidate that wins the game of chance  
73 described in this Subsection (1)(e)(iii).

74 ~~[(D)]~~ (iv) A coin toss or game of chance required under this Subsection [(1)(d)] (1)(e)  
75 shall be conducted by the municipal clerk or recorder in the presence of the  
76 municipal legislative body.

77 ~~[(iii)]~~ (v) If, in the second vote described in Subsection [(1)(d)(ii)(A)] (1)(e)(i), neither  
78 candidate receives a majority vote of the municipal legislative body, the vacancy  
79 shall be determined by a coin toss between the two candidates in accordance with  
80 Subsection [(1)(d)(ii)(D)] (1)(e)(iv).

81 ~~[(e)]~~ (f) If the municipal legislative body does not timely comply with Subsections (1)(b)  
82 through [(d)] (e), the municipal clerk or recorder shall immediately notify the  
83 lieutenant governor.

84 ~~[(f)]~~ (g) After receiving notice that a municipal legislative body has failed to timely  
85 comply with Subsections (1)(b) through [(d)] (e), the lieutenant governor shall:  
86 (i) notify the municipal legislative body of the violation; and  
87 (ii) direct the municipal legislative body to, within 30 calendar days after the day on  
88 which the lieutenant governor provides the notice described in this Subsection [  
89 (1)(f)] (1)(g), appoint an eligible individual to fill the vacancy in accordance with  
90 Subsections [(1)(e) and (d);] (1)(c) through (e).

91 ~~[(g)]~~ (h) If the municipality fails to timely comply with a directive described in  
92 Subsection [(1)(f)] (1)(g):  
93 (i) the lieutenant governor shall notify the governor of the municipality's failure to fill  
94 the vacancy; and  
95 (ii) the governor shall, within 45 days after the day on which the governor receives  
96 the notice described in Subsection [(1)(g)(i)] (1)(h)(i), provide public notice  
97 soliciting candidates to fill the vacancy in accordance with Subsection (1)(c) and  
98 appoint an individual to fill the vacancy.

- 99 (2)(a) A vacancy in the office of municipal executive or member of a municipal  
100 legislative body shall be filled by an interim appointment, followed by an election to  
101 fill a two-year term, if:
- 102 (i) the vacancy occurs, or a letter of resignation is received, by the municipal  
103 executive at least 14 days before the deadline for filing for election in an  
104 odd-numbered year; and
  - 105 (ii) two years of the vacated term will remain after the first Monday of January  
106 following the next municipal election.
- 107 (b) In appointing an interim replacement, the municipal legislative body shall:
- 108 (i) comply with the notice requirements of this section; and
  - 109 (ii) in an open meeting, interview each individual whose name is submitted for  
110 consideration, and who meets the qualifications for office, regarding the  
111 individual's qualifications.
- 112 (3)(a) In a municipality operating under the council-mayor form of government, as  
113 defined in Section 10-3b-102:
- 114 (i) the council may appoint an individual to fill a vacancy in the office of mayor  
115 before the effective date of the mayor's resignation by making the effective date of  
116 the appointment the same as the effective date of the mayor's resignation; and
  - 117 (ii) if a vacancy in the office of mayor occurs before the effective date of an  
118 appointment under Subsection (1) or (2) to fill the vacancy, the remaining council  
119 members, by majority vote, shall appoint a council member to serve as acting  
120 mayor during the time between the creation of the vacancy and the effective date  
121 of the appointment to fill the vacancy.
- 122 (b) A council member serving as acting mayor under Subsection (3)(a)(ii) continues to:
- 123 (i) act as a council member; and
  - 124 (ii) vote at council meetings.
- 125 (4)(a)(i) For a vacancy of a member of a municipal legislative body as described in  
126 this section, the municipal legislative body member whose resignation creates the  
127 vacancy on the municipal legislative body may:
- 128 (A) interview an individual whose name is submitted for consideration under  
129 Subsection (1)(c)(iii) or (2)(b)(ii); and
  - 130 (B) vote on the appointment of an individual to fill the vacancy.
- 131 (ii) Notwithstanding Subsection (4)(a)(i), a member of a legislative body who is  
132 removed from office in accordance with state law may not cast a vote under

133 Subsection (4)(a)(i).

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

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

138 (5) In a municipality operating under the council-mayor form of government, the mayor  
139 may not:

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

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

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

143 (6) A mayor whose resignation from the municipal legislative body is due to election or  
144 appointment as mayor may, in the case of a tie, participate in the vote under this section.

145 (7) A municipal legislative body may, consistent with the provisions of state law, adopt  
146 procedures governing the appointment, interview, and voting process for filling  
147 vacancies in municipal offices.

148 Section 2. **Effective Date.**

149 This bill takes effect on May 7, 2025.