

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

(1) As used in this section:

(a) "Armed forces" means:

- (i) the Army of the United States;
- (ii) the United States Navy;
- (iii) the United States Air Force;
- (iv) the Marine Corps;
- (v) the Coast Guard;
- (vi) the National Guard; or
- (vii) a reserve or auxiliary of an entity listed in Subsections (1)(a)(i) through (vi).

(b)

- (i) "Elected official" is a person who holds an office of a political subdivision that is required by law to be filled by an election.
- (ii) "Elected official" includes a person who is appointed to fill a vacancy in an office described in Subsection (1)(b)(i).

(c)

- (i) "Military leave" means the temporary absence from an office:
 - (A) by an elected official called to active, full-time duty in the armed forces; and
 - (B) for a period of time that exceeds 30 days and does not exceed 400 days.
- (ii) "Military leave" includes the time a person described in Subsection (1)(c)(i) spends for:
 - (A) out processing;
 - (B) an administrative delay;
 - (C) accrued leave; and
 - (D) on rest and recuperation leave program of the armed forces.

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

- (i) for a county, city, or town, the legislative body of the county, city, or town;
- (ii) for a local district, the board of trustees of the local district;
- (iii) for a local school district, the local school board;
- (iv) for a special service district:
 - (A) the legislative body of the county, city, or town that established the special service district, if no administrative control board has been appointed under Section 17D-1-301; or
 - (B) the administrative control board of the special service district, if an administrative control board has been appointed under Section 17D-1-301; and
- (v) for a political subdivision not listed in Subsections (1)(d)(i) through (iv), the body that governs the affairs of the political subdivision.

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

(2) Except as provided by Subsection (8), an elected official creates a vacancy in the elected official's office if the elected official is called to active, full-time duty in the armed forces unless the elected official takes military leave as provided by this section.

(3) Except as provided by Subsection (8), an elected official may take military leave if the elected official submits to the political subdivision's governing body written notice of the intent to take military leave and the expected duration of the military leave, by the later of:

- (a) 21 days before the military leave begins; or
- (b) the next business day after which the elected official receives an order from the armed forces calling the elected official to active, full-time duty.

(4) An elected official's military leave:

- (a) begins the day on which the elected official begins active, full-time duty in the armed forces;
and
 - (b) ends the sooner of:
 - (i) the expiration of the elected official's term of office; or
 - (ii) the day on which the elected official ends active, full-time duty in the armed forces.
- (5) A temporary replacement shall:
- (a) meet the qualifications required to hold the office; and
 - (b) be appointed:
 - (i) before the day on which the military leave begins; and
 - (ii)
 - (A) in the same manner as provided by this part for a midterm vacancy if a registered political party nominated the elected official who takes military leave as a candidate for the office;
or
 - (B) by the political subdivision's governing body after submitting an application in accordance with Subsection (7)(b) if a registered political party did not nominate the elected official who takes military leave as a candidate for office.
- (6)
- (a) A temporary replacement shall exercise the powers and duties of the office for which the temporary replacement is appointed for the duration of the elected official's military leave.
 - (b) An elected official may not exercise the powers or duties of the office while on military leave.
 - (c) If a temporary replacement is not appointed before the day on which the military leave begins as required by Subsection (5)(b)(i), no person may exercise the powers and duties of the elected official's office during the elected official's military leave.
- (7) The political subdivision's governing body shall establish:
- (a) the distribution of the emoluments of the office between the elected official and the temporary replacement; and
 - (b) an application form and the date by which a person shall submit the application to be considered by the political subdivision's governing body for appointment as a temporary replacement.
- (8) An elected official who is called to active, full-time duty in the armed forces before March 16, 2011 is on military leave.

Enacted by Chapter 42, 2011 General Session