

1 **COUNTY OFFICER AMENDMENTS**

2 2006 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: David L. Thomas**

5 House Sponsor: Brad L. Dee

6

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies provisions relating to counties.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ expands the duties of a county assessor that may be reassigned to the treasurer;
- 13 ▶ clarifies that persons elected to fill a vacancy in a county office serve for the
- 14 remainder of the unexpired term;
- 15 ▶ changes the time frame for imposing a penalty for failure to appear and testify when
- 16 requested by the county assessor from 30 days after the taxpayer's receipt of a
- 17 certified notice to 30 days after mailing the notice; and
- 18 ▶ requires the county assessor to impose a fee for certified mailing expenses
- 19 associated with a notice to a property owner.

20 **Monies Appropriated in this Bill:**

21 None

22 **Other Special Clauses:**

23 None

24 **Utah Code Sections Affected:**

25 AMENDS:

26 **17-16-5.5**, as enacted by Chapter 207, Laws of Utah 1999

27 **20A-1-508**, as last amended by Chapter 139, Laws of Utah 1997



28 **41-1a-1320**, as enacted by Chapter 229, Laws of Utah 2003

29 **59-2-307**, as last amended by Chapter 86, Laws of Utah 2000



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

32 Section 1. Section **17-16-5.5** is amended to read:

33 **17-16-5.5. Reassignment of certain assessor duties to treasurer.**

34 A county legislative body may by ordinance reassign to the treasurer the duties of the
35 assessor under Sections 41-1a-1320, 59-2-407, 59-2-1302, 59-2-1303, and 59-2-1305.

36 Section 2. Section **20A-1-508** is amended to read:

37 **20A-1-508. Midterm vacancies in county elected offices.**

38 (1) As used in this section:

39 (a) "County offices" includes the county executive, members of the county legislative
40 body, the county treasurer, the county sheriff, the county clerk, the county auditor, the county
41 recorder, the county surveyor, and the county assessor.

42 (b) "County offices" does not mean the offices of president and vice president of the
43 United States, United States senators and representatives, members of the Utah Legislature,
44 state constitutional officers, county attorneys, district attorneys, and judges.

45 (2) (a) Until a replacement is selected as provided in this section and has qualified, the
46 county legislative body shall appoint an interim replacement to fill the vacant office by
47 following the procedures and requirements of this Subsection (2).

48 (b) (i) To appoint an interim replacement, the county legislative body shall give notice
49 of the vacancy to the county central committee of the same political party of the prior office
50 holder and invite that committee to submit the names of three nominees to fill the vacancy.

51 (ii) That county central committee shall, within 30 days, submit the names of three
52 nominees for the interim replacement to the county legislative body.

53 (iii) The county legislative body shall, within 45 days after the vacancy occurs, appoint
54 one of those nominees to serve out the unexpired term.

55 (c) (i) If the county legislative body fails to appoint an interim replacement to fill the
56 vacancy within 45 days, the county clerk shall send to the governor a letter that:

57 (A) informs the governor that the county legislative body has failed to appoint a
58 replacement within the statutory time period; and

59 (B) contains the list of nominees submitted by the party central committee.

60 (ii) The governor shall appoint an interim replacement from that list of nominees to fill
61 the vacancy within 30 days after receipt of the letter.

62 (d) A person appointed as interim replacement under this Subsection (2) shall hold
63 office until their successor is elected and has qualified.

64 (3) (a) The requirements of this Subsection (3) apply to all county offices that become
65 vacant if:

66 (i) the vacant office has an unexpired term of two years or more; and

67 (ii) the vacancy occurs after the election at which the person was elected but before
68 April 10 of the next even-numbered year.

69 (b) (i) When the conditions established in Subsection (3)(a) are met, the county clerk
70 shall notify the public and each registered political party that the vacancy exists.

71 (ii) All persons intending to become candidates for the vacant office shall:

72 (A) file a declaration of candidacy according to the procedures and requirements of
73 [~~Title 20A,~~] Chapter 9, Part 2[;], Candidate Qualifications and Declarations of Candidacy; and

74 (B) if nominated as a party candidate or qualified as an independent or write-in
75 candidate under [~~Title 20A,~~] Chapter 8, Political Party Formation and [~~Procedure~~] Procedures,
76 run in the regular general election[; ~~and~~].

77 [~~(C) if elected, complete the unexpired term of the person who created the vacancy.~~]

78 (4) (a) The requirements of this Subsection (4) apply to all county offices that become
79 vacant if:

80 (i) the vacant office has an unexpired term of two years or more; and

81 (ii) the vacancy occurs after April 9 of the next even-numbered year but more than 50
82 days before the regular primary election.

83 (b) (i) When the conditions established in Subsection (4)(a) are met, the county clerk
84 shall notify the public and each registered political party that:

85 (A) the vacancy exists; and

86 (B) identifies the date and time by which a person interested in becoming a candidate
87 must file a declaration of candidacy.

88 (ii) All persons intending to become candidates for the vacant offices shall, within five
89 days after the date that the notice is made, ending at 5 p.m. on the fifth day, file a declaration

90 of candidacy for the vacant office as required by [~~Title 20A,~~] Chapter 9, Part 2, Candidate
91 Qualifications and Declarations of Candidacy.

92 (iii) The county central committee of each party shall:

93 (A) select a candidate or candidates from among those qualified candidates who have
94 filed declarations of candidacy; and

95 (B) certify the name of the candidate or candidates to the county clerk at least 35 days
96 before the regular primary election.

97 (5) (a) The requirements of this Subsection (5) apply to all county offices that become
98 vacant:

99 (i) if the vacant office has an unexpired term of two years or more; and

100 (ii) when 50 days or less remain before the regular primary election but more than 50
101 days remain before the regular general election.

102 (b) When the conditions established in Subsection (5)(a) are met, the county central
103 committees of each political party registered under this title that wishes to submit a candidate
104 for the office shall summarily certify the name of one candidate to the county clerk for
105 placement on the regular general election ballot.

106 (6) (a) The requirements of this Subsection (6) apply to all county offices that become
107 vacant:

108 (i) if the vacant office has an unexpired term of less than two years; or

109 (ii) if the vacant office has an unexpired term of two years or more but 50 days or less
110 remain before the next regular general election.

111 (b) (i) When the conditions established in Subsection (6)(a) are met, the county
112 legislative body shall give notice of the vacancy to the county central committee of the same
113 political party as the prior office holder and invite that committee to submit the names of three
114 nominees to fill the vacancy.

115 (ii) That county central committee shall, within 30 days, submit the names of three
116 nominees to fill the vacancy to the county legislative body.

117 (iii) The county legislative body shall, within 45 days after the vacancy occurs, appoint
118 one of those nominees to serve out the unexpired term.

119 (c) (i) If the county legislative body fails to appoint a person to fill the vacancy within
120 45 days, the county clerk shall send to the governor a letter that:

121 (A) informs the governor that the county legislative body has failed to appoint a person
122 to fill the vacancy within the statutory time period; and

123 (B) contains the list of nominees submitted by the party central committee.

124 (ii) The governor shall appoint a person to fill the vacancy from that list of nominees to
125 fill the vacancy within 30 days after receipt of the letter.

126 (d) A person appointed to fill the vacancy under this Subsection (6) shall hold office
127 until their successor is elected and has qualified.

128 (7) Except as otherwise provided by law, the county legislative body may appoint
129 replacements to fill all vacancies that occur in those offices filled by appointment of the county
130 legislative body.

131 (8) Nothing in this section prevents or prohibits independent candidates from filing a
132 declaration of candidacy for the office within the same time limits.

133 (9) (a) Each person elected under Subsection (3), (4), or (5) to fill a vacancy in a
134 county office shall serve for the remainder of the unexpired term of the person who created the
135 vacancy and until a successor is elected and qualified.

136 (b) Nothing in this section may be construed to contradict or alter the provisions of
137 Section 17-16-6.

138 Section 3. Section **41-1a-1320** is amended to read:

139 **41-1a-1320. Tax clearance required to move manufactured home or mobile home.**

140 (1) A manufactured home or mobile home may not be transported by any person,
141 including its owner, unless a tax clearance has been obtained from the assessor or, if the
142 responsibility to provide a tax clearance has been reassigned under Section 17-16-5.5, the
143 treasurer of the county in which the real property upon which the manufactured home or mobile
144 home was last located showing that all property taxes, including any interest and penalties,
145 have been paid.

146 (2) The tax clearance described in Subsection (1):

147 (a) is proof of having paid all property taxes, interest, and penalties; and

148 (b) shall be displayed in a conspicuous place on the rear of the manufactured home or
149 mobile home so as to be plainly visible while in transit.

150 (3) (a) Any person, including the owner, who transports a manufactured home or
151 mobile home without a valid tax clearance is:

- 152 (i) in violation of Section 59-2-309; and
 153 (ii) subject to the penalty provisions of Section 59-2-309.

154 (b) In addition to the penalty provided in Subsection (3)(a), any commercial mover
 155 who transports any manufactured home or mobile home without a valid tax clearance is guilty
 156 of a class B misdemeanor.

157 Section 4. Section **59-2-307** is amended to read:

158 **59-2-307. Refusal by taxpayer to file signed statement -- Penalty -- Assessor to**
 159 **estimate value -- Reporting information to other counties.**

160 (1) (a) ~~[Any]~~ Each person who ~~[does not: (a)]~~ fails to file the signed statement required
 161 by Section 59-2-306~~[(b)]~~, fails to file the signed statement with respect to name and place of
 162 residence~~;~~, or ~~[(c)]~~ fails to appear and testify when requested by the assessor, shall pay a
 163 penalty equal to 10% of the estimated tax due~~;~~, but not less than \$100 for each failure to file a
 164 signed and completed statement~~[-to]~~.

165 (b) Each penalty under Subsection (1)(a) shall be collected in the manner provided by
 166 Sections 59-2-1302 and 59-2-1303, except as otherwise provided for in this section, or by a
 167 judicial proceeding brought in the name of the assessor.

168 (c) All money recovered by any assessor under this section shall be paid into the county
 169 treasury.

170 (2) (a) The penalty imposed by Subsection (1)(a) may not be waived or reduced by the
 171 assessor, county, county Board of Equalization, or commission except pursuant to a procedure
 172 for the review and approval of reductions and waivers adopted by county ordinance, or by
 173 administrative rule adopted in accordance with Title 63, Chapter 46a, Utah Administrative
 174 Rulemaking Act.

175 (b) The penalty under Subsection (1)~~(c)~~(a) for failure to appear and testify when
 176 requested by the assessor may not be imposed until 30 days after the ~~[taxpayer's receipt]~~

176a **Ŝ→ certified postmark date of ←Ŝ**

177 mailing of a subsequent certified notice.

178 (3) (a) If any owner neglects or refuses to file the signed statement within 30 days of
 179 the date the first county request was sent as required under Section 59-2-306, the assessor shall:

180 (i) make:

181 ~~[(i)]~~ (A) a subsequent request by certified mail for the signed statement~~[-The~~
 182 ~~subsequent request shall also inform]~~, informing the owner of the consequences of not filing a

183 signed statement; and
184 ~~[(ii)]~~ (B) a record of the failure to file and an estimate of the value of the property of
185 the owner based on known facts and circumstances[-]; and

186 (ii) impose a fee for the actual and necessary expenses of the certified mailing under
187 Subsection (3)(a)(i)(A).

188 (b) The value fixed by the assessor may not be reduced by the county board of
189 equalization or by the commission.

190 (4) If the signed statement discloses property in any other county, the assessor shall file
191 the signed statement and send a certified copy to the assessor of each county in which the
192 property is located.

Legislative Review Note
as of 6-14-05 10:36 AM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number SB0100

County Officer Amendments

14-Jan-06

8:00 PM

State Impact

No fiscal impact.

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst