

HB0248S01 compared with HB0248

~~deleted text~~ shows text that was in HB0248 but was deleted in HB0248S01.

inserted text shows text that was not in HB0248 but was inserted into HB0248S01.

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Senator Ralph Okerlund proposes the following substitute bill:

COUNTY OFFICE VACANCIES

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Carl Wimmer

Senate Sponsor: ~~_____~~ Wayne L. Niederhauser

LONG TITLE

General Description:

This bill amends provisions related to midterm vacancies in county elected offices.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ amends provisions related to midterm vacancies in county elected offices;
- ▶ amends provisions related to a party liaison; and
- ▶ makes technical corrections.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

HB0248S01 compared with HB0248

Utah Code Sections Affected:

AMENDS:

20A-1-508, as last amended by Laws of Utah 2010, Chapter 197

20A-8-401, as last amended by Laws of Utah 2010, Chapter 177

20A-8-402, as last amended by Laws of Utah 1999, Chapter 49

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

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

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

(1) As used in this section:

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

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

(b) "Party liaison" means the political party officer designated to serve as a liaison with ~~each~~ a county of the first class legislative body on all matters relating to the political party's relationship with ~~the~~ county as required by Section 20A-8-401.

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

(b) (i) To appoint an interim replacement~~[-];~~

(A) the county legislative body of a county other than a county of the first class shall give notice of the vacancy to the ~~the~~ county central committee~~[-]~~ party liaison of the same political party of the prior office holder and invite that ~~the~~ committee~~[-]~~ party liaison to submit the ~~the~~ names of three nominees~~[-]~~ to fill the vacancy~~[-]; or~~

(B) the county legislative body of a county of the first class shall give notice of the vacancy to the party liaison of the same political party of the prior office holder and invite that party liaison to submit the name of a person to fill the vacancy.

(ii) ~~That ~~the~~~~ (A) For a county described in Subsection (2)(b)(i)(A), the county central

HB0248S01 compared with HB0248

committee ~~{ }~~ party liaison shall, within 30 days, submit the ~~{ }~~ names of three nominees ~~{ }~~ name of the person for the interim replacement to the county legislative body.

~~{(iii)}~~ (B) For a county described in Subsection (2)(b)(i)(B), the party liaison shall, within 30 days, submit the name of the person selected in accordance with the party constitution or bylaws as described in Section 20A-8-401 for the interim replacement to the county legislative body.

(iii) (A) The county legislative body of a county described in Subsection (2)(b)(i)(A) shall ~~{ }~~, within 45 days after the vacancy occurs, appoint one of those nominees ~~{ }~~ to serve out the unexpired term.

(B) The county legislative body of a county described in Subsection (2)(b)(i)(B) shall no later than five days after the day on which a party liaison submits the name of the person for the interim replacement appoint the person to serve out the unexpired term.

(c) (i) If the county legislative body of a county described in Subsection (2)(b)(i)(A) fails to appoint an interim replacement to fill the vacancy [~~within 45 days~~] in accordance with Subsection (2)(b)(iii)(A), the county clerk shall send to the governor a letter that:

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

(B) contains the ~~{ }~~ list of nominees ~~{ }~~ name of the person to fill the vacancy submitted by the ~~{ }~~ party central committee ~~{ }~~ party liaison.

(ii) The governor shall appoint ~~{ }~~ the person named by the party liaison as an interim replacement ~~{ }~~ from that list of nominees ~~{ }~~ to fill the vacancy within 30 days after receipt of the letter.

(d) (i) If the county legislative body of a county described in Subsection (2)(b)(i)(B) fails to appoint an interim replacement to fill the vacancy in accordance with Subsection (2)(b)(iii)(B), the county clerk shall send to the governor a letter that:

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

(B) contains the name of the person to fill the vacancy submitted by the party liaison.

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

(3) (a) The requirements of this Subsection (3) apply to all county offices that become

HB0248S01 compared with HB0248

vacant if:

- (i) the vacant office has an unexpired term of two years or more; and
- (ii) the vacancy occurs after the election at which the person was elected but before

April 10 of the next even-numbered year.

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

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

(A) file a declaration of candidacy according to the procedures and requirements of Chapter 9, Part 2, Candidate Qualifications and Declarations of Candidacy; and

(B) if nominated as a party candidate or qualified as an independent or write-in candidate under Chapter 8, Political Party Formation and Procedures, run in the regular general election.

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

- (i) the vacant office has an unexpired term of two years or more; and
- (ii) the vacancy occurs after April 9 of the next even-numbered year but more than 50

days before the regular primary election.

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

(A) the vacancy exists; and

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

(ii) All persons intending to become candidates for the vacant offices shall, within five days after the date that the notice is made, ending at the close of normal office hours on the fifth day, file a declaration of candidacy for the vacant office as required by Chapter 9, Part 2, Candidate Qualifications and Declarations of Candidacy.

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

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

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

HB0248S01 compared with HB0248

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

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

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

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

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

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

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

(b) (i) When the conditions established in Subsection (6)(a) are met~~[-]~~:

(A) the county legislative body of a county described in Subsection (2)(b)(i)(A) shall give notice of the vacancy to the {{}} county central committee {{}} party liaison of the same political party as the prior office holder and invite that {{}} committee {{}} party liaison to submit the {{}} names of three nominees {{}} to fill the vacancy[-]; or

(B) the county legislative body of a county described in Subsection (2)(b)(i)(B) shall give notice of the vacancy to the party liaison of the same political party as the prior office holder and invite that party liaison to submit the name of a person to fill the vacancy.

(ii) ~~That {{}}~~ (A) For a county described in Subsection (2)(b)(i)(A), the county central committee {{}} party liaison described in Subsection (6)(b)(i)(A) shall, within 30 days, submit the {{}} names of three nominees {{}} name of the person to fill the vacancy to the county legislative body.

~~{{(iii)}} (B) For a county described in Subsection (2)(b)(i)(B), the party liaison described in Subsection (6)(b)(i)(B) shall, within 30 days, submit the name of the person to fill the vacancy to the county legislative body.~~

(iii) (A) The county legislative body of a county described in Subsection (2)(b)(i)(A) shall {{}}, within 45 days after the vacancy occurs, appoint one of those nominees {{}} to serve

HB0248S01 compared with HB0248

out the unexpired term.

(B) The county legislative body of a county described in Subsection (2)(b)(i)(B) shall no later than five days after the day on which a party liaison submits the name of the person to fill the vacancy appoint the person to serve out the unexpired term.

(c) (i) If the county legislative body of a county other than a county of the first class fails to appoint a person to fill the vacancy [~~within 45 days~~] in accordance with Subsection (6)(b)(iii)(A), or the county legislative body of a county of the first class fails to appoint a person in accordance with Subsection (6)(b)(iii)(B), ~~the~~ the county clerk shall send to the governor a letter that:

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

(B) contains the ~~list~~ list of nominees ~~submitted by the party central committee of a county other than a county of the first class or the~~ name of the person to fill the vacancy submitted by the ~~party central committee~~ party liaison of a county of the first class, respectively.

(ii) The governor shall appoint ~~the~~:

(A) for a county described in Subsection (2)(b)(i)(A), a person to fill the vacancy from ~~that~~ list of nominees ~~the person named~~ submitted by the party ~~liaison~~ central committee of a county other than a county of the first class to fill the vacancy within 30 days after receipt of the letter ~~or~~ or

(B) for a county described in Subsection (2)(b)(i)(B), the person named by the party liaison of the county of the first class to fill the vacancy within 30 days after receipt of the letter.

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

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

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

(9) (a) Each person elected under Subsection (3), (4), or (5) to fill a vacancy in a

HB0248S01 compared with HB0248

county office shall serve for the remainder of the unexpired term of the person who created the vacancy and until a successor is elected and qualified.

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

Section 2. Section **20A-8-401** is amended to read:

20A-8-401. Registered political parties -- Bylaws.

(1) (a) Each registered state political party shall file a copy of its constitution and bylaws with the lieutenant governor by January 1, 1995.

(b) Each new or unregistered state political party that seeks to become a registered political party under the authority of this chapter shall file a copy of its proposed constitution and bylaws at the time it files its registration information.

(c) Each registered state political party shall file revised copies of its constitution or bylaws with the lieutenant governor within 15 days after the constitution or bylaws are adopted or amended.

(2) Each state political party, each new political party seeking registration, and each unregistered political party seeking registration shall ensure that its constitution or bylaws contain:

(a) provisions establishing party organization, structure, membership, and governance that include:

(i) a description of the position, selection process, qualifications, duties, and terms of each party officer and committees defined by constitution and bylaws;

(ii) a provision requiring a designated party officer to serve as liaison with:

(A) the lieutenant governor on all matters relating to the political party's relationship with the state; and

(B) ~~each~~ for a county of the first class, the county legislative body on matters relating to the political party's relationship with ~~fa~~the county;

(iii) a description of the requirements for participation in party processes;

(iv) the dates, times, and quorum of any regularly scheduled party meetings, conventions, or other conclaves; and

(v) a mechanism for making the names of delegates, candidates, and elected party officers available to the public shortly after they are selected;

HB0248S01 compared with HB0248

(b) a procedure for selecting party officers that allows active participation by party members;

(c) a procedure for selecting party candidates at the federal, state, and county levels that allows active participation by party members;

(d) (i) a procedure for selecting electors who are pledged to cast their votes in the electoral college for the party's candidates for president and vice president of the United States; and

(ii) a procedure for filling vacancies in the office of presidential elector because of death, refusal to act, failure to attend, ineligibility, or any other cause;

(e) a procedure for filling vacancies in the office of representative or senator or a county office, as described in Section 20A-1-508, because of death, resignation, or ineligibility;

(f) a provision requiring the governor and lieutenant governor to run as a joint ticket;

(g) a procedure for replacing party candidates who die, become disabled, or are disqualified before a primary or regular general election;

(h) provisions governing the deposit and expenditure of party funds, and governing the accounting for, reporting, and audit of party financial transactions;

(i) provisions governing access to party records;

(j) a procedure for amending the constitution or bylaws that allows active participation by party members or their representatives;

(k) a process for resolving grievances against the political party; and

(l) if desired by the political party, a process for consulting with, and obtaining the opinion of, the political party's Utah Senate and Utah House members about:

(i) the performance of the two United States Senators from Utah, including specifically:

(A) their views and actions regarding the defense of state's rights and federalism; and

(B) their performance in representing Utah's interests;

(ii) the members' opinion about, or rating of, and support or opposition to the policy positions of any candidates for United States Senate from Utah, including incumbents, including specifically:

(A) their views and actions regarding the defense of state's rights and federalism; and

(B) their performance in representing Utah's interests; and

HB0248S01 compared with HB0248

(iii) the members' collective or individual endorsement or rating of a particular candidate for United States Senate from Utah.

Section 3. Section **20A-8-402** is amended to read:

20A-8-402. Political party officers -- Submission of names of officers to the lieutenant governor.

(1) Each state political party shall:

(a) designate a party officer to act as liaison with:

(i) the lieutenant governor's office; and

(ii) ~~each~~ for a county of the first class, the county legislative body; and

(b) within seven days of any change in the party liaison, submit the name of the new liaison to the lieutenant governor.

(2) Each state political party and each county political party shall:

(a) submit the names of its officers to the lieutenant governor within seven days after the officers are selected; and

(b) within seven days of any change in party officers, submit the names of the new officers to the lieutenant governor.

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Legislative Review Note

~~as of 1-24-11 4:39 PM~~

~~Office of Legislative Research and General Counsel~~