

Representative Christopher N. Herrod proposes the following substitute bill:

1 **MILITARY LEAVE FOR AN ELECTED OFFICIAL OF A**
2 **POLITICAL SUBDIVISION**

3 2011 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: John L. Valentine**

6 House Sponsor: Christopher N. Herrod

7 Cosponsor: Curtis S. Bramble

8
9 **LONG TITLE**

10 **General Description:**

11 This bill amends Title 20A, Election Code, to authorize an elected official of a political
12 subdivision to take military leave.

13 **Highlighted Provisions:**

14 This bill:

- 15 ▶ defines terms;
- 16 ▶ authorizes an elected official of a political subdivision to take military leave;
- 17 ▶ authorizes the governing body to:
 - 18 • appoint a temporary replacement for an elected official who takes military leave;
 - 19 • establish the distribution of the emoluments of the office between the elected
20 official and the temporary replacement; and
 - 21 • establish an application process; and
- 22 ▶ makes technical changes.

23 **Money Appropriated in this Bill:**

24 None

25 **Other Special Clauses:**



26 This bill provides an immediate effective date.

26a **H→ This bill provides revisor instructions. ←H**

27 **Utah Code Sections Affected:**

28 ENACTS:

29 **20A-1-513**, Utah Code Annotated 1953



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

32 Section 1. Section **20A-1-513** is enacted to read:

33 **Part 5. Candidate Vacancy and Vacancy and Temporary Absence in Elected Office**

34 **20A-1-513. Temporary absence in elected office of a political subdivision for**
35 **military service.**

36 (1) As used in this section:

37 (a) "Armed forces" means:

38 (i) the Army of the United States;

39 (ii) the United States Navy;

40 (iii) the United States Air Force;

41 (iv) the Marine Corps;

42 (v) the Coast Guard;

43 (vi) the National Guard; or

44 (vii) a reserve or auxiliary of an entity listed in Subsections (1)(a)(i) through (vi).

45 (b) (i) "Elected official" is a person who holds an office of a political subdivision that
46 is required by law to be filled by an election.

47 (ii) "Elected official" includes a person who is appointed to fill a vacancy in an office
48 described in Subsection (1)(b)(i).

49 (c) (i) "Military leave" means the temporary absence from an office:

50 (A) by an elected official called to active, full-time duty in the armed forces; and

51 (B) for a period of time that exceeds 30 days and does not exceed 400 days.

52 (ii) "Military leave" includes the time a person described in Subsection (1)(c)(i) spends

53 for:

54 (A) out processing;

55 (B) an administrative delay;

56 (C) accrued leave; and

57 (D) on rest and recuperation leave program of the armed forces.

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

59 (i) for a county, city, or town, the legislative body of the county, city, or town;

60 (ii) for a local district, the board of trustees of the local district;

61 (iii) for a local school district, the local school board;

62 (iv) for a special service district;

63 (A) the legislative body of the county, city, or town that established the special service
64 district, if no administrative control board has been appointed under Section 17D-1-301; or

65 (B) the administrative control board of the special service district, if an administrative
66 control board has been appointed under Section 17D-1-301; and

67 (v) for a political subdivision not listed in Subsections (1)(d)(i) through (iv), the body
68 that governs the affairs of the political subdivision.

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

72 (2) ~~It~~ **→ [An]** **Except as provided by Subsection (9), an ~~It~~** elected official creates a
72a vacancy in the elected official's office if the elected
73 official is called to active, full-time duty in the armed forces unless the elected official takes
74 military leave as provided by this section.

75 (3) ~~It~~ **→ [An]** **Except as provided by Subsection (9), an ~~It~~** elected official may take
75a military leave if the elected official submits to the
76 political subdivision's governing body written notice of the intent to take military leave and the
77 expected duration of the military leave, by the later of:

78 (a) 21 days before the military leave begins; or

79 (b) the next business day after which the elected official receives an order from the
80 armed forces calling the elected official to active, full-time duty.

81 (4) An elected official's military leave:

82 (a) begins the day on which the elected official begins active, full-time duty in the
83 armed forces; and

84 (b) ends the sooner of:

85 (i) the expiration of the elected official's term of office; or

86 (ii) the day on which the elected official ends active, full-time duty in the armed forces.

87 (5) A temporary replacement shall:

88 (a) meet the qualifications required to hold the office; and

89 (b) be appointed:

90 (i) ~~H→ [H→ except as provided by Subsection (9), ←H] ←H~~ before the day on which
 90a1 the military

90a leave begins; and

91 (ii) (A) in the same manner as provided by this part for a midterm vacancy if a
 92 registered political party nominated the elected official who takes military leave as a candidate
 93 for the office; or

94 (B) by the political subdivision's governing body after submitting an application in
 95 accordance with Subsection (8)(b) if a registered political party did not nominate the elected
 96 official who takes military leave as a candidate for office.

97 **H→ [(6) If a political subdivision's governing body does not appoint a temporary**
 98 **replacement before the day on which the military leave begins, the elected official's office shall**
 99 **remain vacant until the day on which the military leave ends.] ←H**

100 (7) (a) A temporary replacement shall exercise the powers and duties of the office for
 101 which the temporary replacement is appointed for the duration of the elected official's military
 102 leave.

103 (b) An elected official may not exercise the powers or duties of the office while on
 104 military leave.

104a **H→ (c) [Except as provided by Subsection (9), if] If a temporary replacement is**
 104b1 **not appointed**
 104b **before the day on which the military leave begins as required by Subsection (5)(b)(i), no person**
 104c **may exercise the powers and duties of the elected official's office during the elected official's**
 104d **military leave. ←H**

105 (8) The political subdivision's governing body shall establish:

106 (a) the distribution of the emoluments of the office between the elected official and the
 107 temporary replacement; and

108 (b) an application form and the date by which a person shall submit the application to
 109 be considered by the political subdivision's governing body for appointment as a temporary
 110 replacement.

110a **H→ (9) [(a)] An elected official who is called to active, full-time duty in the armed forces**
 110b **before the effective date of this bill is on military leave.**

110c **[(b) A temporary replacement for an elected official described in Subsection (9)(a) who**
 110d **meets the qualifications to hold office may be appointed as provided by Subsection (5)(b)(ii) on**
 110e **or after the effective date of this bill.] ←H**

111 Section 2. Effective date.

112 If approved by two-thirds of all the members elected to each house, this bill takes effect
113 upon approval by the governor, or the day following the constitutional time limit of Utah
114 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,
115 the date of veto override.

115a **Ĥ→ Section 3. Revisor instructions.**

115b **It is the intent of the Legislature that, in preparing the Utah Code database for**
115c **publication, the Office of Legislative Research and General Counsel shall replace the**
115d **references in Subsection 20A-1-513(9) from "the effective date of this bill" with the bill's**
115e **actual effective date.** ←Ĥ

FISCAL NOTE

S.B. 66 1st Sub. (Green)

SHORT TITLE: Military Leave for an Elected Official of a Political Subdivision

SPONSOR: Herrod, C.

2011 GENERAL SESSION, STATE OF UTAH

STATE GOVERNMENT (UCA 36-12-13(2)(b))

Enactment of this bill likely will not materially impact the state budget.

LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

Enactment of this bill likely will not result in direct, measurable costs for local governments.

DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d))

Enactment of this bill likely will not result in direct, measurable expenditures by Utah residents or businesses.