

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

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: John L. Valentine

House Sponsor: Christopher N. Herrod

Cosponsor: Curtis S. Bramble

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

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

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides an immediate effective date.

This bill provides revisor instructions.

Utah Code Sections Affected:

29 ENACTS:

30 **20A-1-513**, Utah Code Annotated 1953

31

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

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

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

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

36 **military service.**

37 (1) As used in this section:

38 (a) "Armed forces" means:

39 (i) the Army of the United States;

40 (ii) the United States Navy;

41 (iii) the United States Air Force;

42 (iv) the Marine Corps;

43 (v) the Coast Guard;

44 (vi) the National Guard; or

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

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

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

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

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

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

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

54 for:

55 (A) out processing;

56 (B) an administrative delay;

57 (C) accrued leave; and
58 (D) on rest and recuperation leave program of the armed forces.
59 (d) "Political subdivision's governing body" means:
60 (i) for a county, city, or town, the legislative body of the county, city, or town;
61 (ii) for a local district, the board of trustees of the local district;
62 (iii) for a local school district, the local school board;
63 (iv) for a special service district:
64 (A) the legislative body of the county, city, or town that established the special service
65 district, if no administrative control board has been appointed under Section 17D-1-301; or
66 (B) the administrative control board of the special service district, if an administrative
67 control board has been appointed under Section 17D-1-301; and
68 (v) for a political subdivision not listed in Subsections (1)(d)(i) through (iv), the body
69 that governs the affairs of the political subdivision.
70 (e) "Temporary replacement" means the person appointed by the political subdivision's
71 governing body in accordance with this section to exercise the powers and duties of the office
72 of the elected official who takes military leave.
73 (2) Except as provided by Subsection (8), an elected official creates a vacancy in the
74 elected official's office if the elected official is called to active, full-time duty in the armed
75 forces unless the elected official takes military leave as provided by this section.
76 (3) Except as provided by Subsection (8), an elected official may take military leave if
77 the elected official submits to the political subdivision's governing body written notice of the
78 intent to take military leave and the expected duration of the military leave, by the later of:
79 (a) 21 days before the military leave begins; or
80 (b) the next business day after which the elected official receives an order from the
81 armed forces calling the elected official to active, full-time duty.
82 (4) An elected official's military leave:
83 (a) begins the day on which the elected official begins active, full-time duty in the
84 armed forces; and

85 (b) ends the sooner of:
86 (i) the expiration of the elected official's term of office; or
87 (ii) the day on which the elected official ends active, full-time duty in the armed forces.
88 (5) A temporary replacement shall:
89 (a) meet the qualifications required to hold the office; and
90 (b) be appointed:
91 (i) before the day on which the military leave begins; and
92 (ii) (A) in the same manner as provided by this part for a midterm vacancy if a
93 registered political party nominated the elected official who takes military leave as a candidate
94 for the office; or
95 (B) by the political subdivision's governing body after submitting an application in
96 accordance with Subsection (7)(b) if a registered political party did not nominate the elected
97 official who takes military leave as a candidate for office.
98 (6) (a) A temporary replacement shall exercise the powers and duties of the office for
99 which the temporary replacement is appointed for the duration of the elected official's military
100 leave.
101 (b) An elected official may not exercise the powers or duties of the office while on
102 military leave.
103 (c) If a temporary replacement is not appointed before the day on which the military
104 leave begins as required by Subsection (5)(b)(i), no person may exercise the powers and duties
105 of the elected official's office during the elected official's military leave.
106 (7) The political subdivision's governing body shall establish:
107 (a) the distribution of the emoluments of the office between the elected official and the
108 temporary replacement; and
109 (b) an application form and the date by which a person shall submit the application to
110 be considered by the political subdivision's governing body for appointment as a temporary
111 replacement.
112 (8) An elected official who is called to active, full-time duty in the armed forces before

113 the effective date of this bill is on military leave.

114 Section 2. **Effective date.**

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

119 Section 3. **Revisor instructions.**

120 It is the intent of the Legislature that, in preparing the Utah Code database for
121 publication, the Office of Legislative Research and General Counsel shall replace the
122 references in Subsection 20A-1-513(8) from "the effective date of this bill" with the bill's
123 actual effective date.