

Representative Val K. Potter proposes the following substitute bill:

TEMPORARY REPLACEMENT FOR COUNTY ELECTED

OFFICIALS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Val K. Potter

Senate Sponsor: Deidre M. Henderson

LONG TITLE

General Description:

This bill provides for a temporary manager to fulfill the duties of a vacant county office until the county legislative body appoints an interim replacement.

Highlighted Provisions:

This bill:

- ▶ provides for a temporary manager to fulfill the duties of a vacant county office until the county legislative body appoints an interim replacement; and
- ▶ imposes limitations on the temporary manager's authority.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

20A-1-508, as last amended by Laws of Utah 2017, Chapter 54

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



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

27 **20A-1-508. Midterm vacancies in county elected offices.**

28 (1) As used in this section:

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

32 (ii) "County offices" does not [~~mean the offices of president and vice president of the~~
33 ~~United States, United States senators and representatives, members of the Utah Legislature,~~
34 ~~state constitutional officers, county attorneys, district attorneys, and judges]~~ include the office
35 of county attorney, district attorney, or judge.

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

39 (2) (a) Until a county legislative body appoints an interim replacement to fill a vacant
40 county office under Subsection (3), the following shall temporarily fill the county office as a
41 temporary manager:

42 (i) for a county office with one chief deputy, the chief deputy;

43 (ii) for a county office with more than one chief deputy:

44 (A) the chief deputy with the most cumulative time served as a chief deputy for the
45 county office; or

46 (B) notwithstanding Subsection (2)(a)(ii)(A), if, before the vacating county officer
47 vacates the office, the county officer files with the county clerk a written statement designating
48 one of the county officer's chief deputies to discharge the duties of the county office in the
49 event the county officer vacates the office, the designated chief deputy; or

50 (iii) for a county office without a chief deputy:

51 (A) if one management-level employee serving under the county office has a
52 higher-seniority management level than any other employee serving under the county office,
53 that management-level employee;

54 (B) if two or more management-level employees serving under the county office have
55 the same and highest-seniority management level, the highest-seniority management-level
56 employee with the most cumulative time served in the employee's current position; or

57 (C) notwithstanding Subsection (2)(a)(iii)(A) or (B), if, before the vacating county
58 officer vacates the office, the county officer files with the county clerk a written statement
59 designating one of the county officer's employees to discharge the county officer's duties in the
60 event the county officer vacates the office, the designated employee.

61 (b) Except as provided in Subsection (2)(c), a temporary manager described in
62 Subsection (2)(a) who temporarily fills a county office holds the powers and duties of the
63 county office until the county legislative body appoints an interim replacement under
64 Subsection (3).

65 (c) The temporary manager described in Subsection (2)(a) who temporarily fills a
66 county office:

67 (i) may not take an oath of office for the county office as a temporary manager;

68 (ii) shall comply with Title 17, Chapter 36, Uniform Fiscal Procedures Act for

69 Counties, and the county's budget ordinances and policies;

70 (iii) unless approved by the county legislative body, may not change the compensation
71 of an employee;

72 (iv) unless approved by the county legislative body, may not promote or demote an
73 employee or change an employee's job title;

74 (v) may terminate an employee only if the termination is conducted in accordance with:

75 (A) personnel rules described in Subsection 17-33-5(3) that are approved by the county
76 legislative body; and

77 (B) applicable law;

78 (vi) unless approved by the county legislative body, may not exceed by more than 5%
79 an expenditure that was planned before the county office that the temporary manager fills was
80 vacated;

81 (vii) except as provided in Subsection (2)(c)(viii), may not receive a change in title or
82 compensation; and

83 (viii) if approved by the county legislative body, may receive a performance award
84 after:

85 (A) the county legislative body appoints an interim replacement under Subsection (3);

86 and

87 (B) the interim replacement is sworn into office.

88 ~~[(2)]~~ (3) (a) Until a replacement is selected as provided in this section and has
89 qualified, the county legislative body shall appoint an interim replacement to fill the vacant
90 office by following the procedures and requirements of this Subsection ~~[(2)]~~ (3).

91 (b) (i) To appoint an interim replacement, the county legislative body shall give notice
92 of the vacancy to the party liaison of the same political party of the prior office holder and
93 invite that party liaison to submit the name of a person to fill the vacancy.

94 (ii) That party liaison shall, within 30 days, submit the name of the person selected in
95 accordance with the party constitution or bylaws as described in Section 20A-8-401 for the
96 interim replacement to the county legislative body.

97 (iii) The county legislative body shall no later than five days after the day on which a
98 party liaison submits the name of the person for the interim replacement appoint the person to
99 serve out the unexpired term.

100 (c) (i) If the county legislative body fails to appoint an interim replacement to fill the
101 vacancy in accordance with Subsection ~~[(2)]~~ (3)(b)(iii), the county clerk shall send to the
102 governor a letter that:

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

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

106 (ii) The governor shall appoint the person named by the party liaison as an interim
107 replacement to fill the vacancy within 30 days after receipt of the letter.

108 (d) A person appointed as interim replacement under this Subsection ~~[(2)]~~ (3) shall
109 hold office until their successor is elected and has qualified.

110 ~~[(3)]~~ (4) (a) The requirements of this Subsection ~~[(3)]~~ (4) apply to all county offices
111 that become vacant if:

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

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

115 (b) (i) When the conditions established in Subsection ~~[(3)]~~ (4)(a) are met, the county
116 clerk shall notify the public and each registered political party that the vacancy exists.

117 (ii) An individual intending to become a candidate for the vacant office shall file a
118 declaration of candidacy in accordance with:

119 (A) Chapter 9, Part 2, Candidate Qualifications and Declarations of Candidacy; and

120 (B) for a county commission office, Subsection 17-52-501(6) or 17-52-502(6), if

121 applicable.

122 (iii) An individual who is nominated as a party candidate for the vacant office or
123 qualified as an independent or write-in candidate under Chapter 8, Political Party Formation
124 and Procedures, for the vacant office shall run in the regular general election.

125 [~~(4)~~] (5) (a) The requirements of this Subsection [~~(4)~~] (5) apply to all county offices
126 that become vacant if:

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

128 (ii) the vacancy occurs after April 9 of the next even-numbered year but more than 75
129 days before the regular primary election.

130 (b) (i) When the conditions established in Subsection [~~(4)~~] (5)(a) are met, the county
131 clerk shall notify the public and each registered political party that:

132 (A) the vacancy exists; and

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

135 (ii) An individual intending to become a candidate for a vacant office shall, within five
136 days after the date that the notice is made, ending at the close of normal office hours on the
137 fifth day, file a declaration of candidacy for the vacant office in accordance with:

138 (A) Chapter 9, Part 2, Candidate Qualifications and Declarations of Candidacy; and

139 (B) for a county commission office, Subsection 17-52-501(6) or 17-52-502(6), if
140 applicable.

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

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

144 (B) certify the name of the candidate or candidates to the county clerk at least 60 days
145 before the regular primary election.

146 [~~(5)~~] (6) (a) The requirements of this Subsection [~~(5)~~] (6) apply to all county offices
147 that become vacant:

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

149 (ii) when 75 days or less remain before the regular primary election but more than 65

150 days remain before the regular general election.

151 (b) When the conditions established in Subsection [~~(5)~~] (6)(a) are met, the county
152 central committees of each political party registered under this title that wishes to submit a
153 candidate for the office shall summarily certify the name of one candidate to the county clerk
154 for placement on the regular general election ballot.

155 [~~(6)~~] (7) (a) The requirements of this Subsection [~~(6)~~] (7) apply to all county offices
156 that become vacant:

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

158 (ii) if the vacant office has an unexpired term of two years or more but 65 days or less
159 remain before the next regular general election.

160 (b) (i) When the conditions established in Subsection [~~(6)~~] (7)(a) are met, the county
161 legislative body shall give notice of the vacancy to the party liaison of the same political party
162 as the prior office holder and invite that party liaison to submit the name of a person to fill the
163 vacancy.

164 (ii) That party liaison shall, within 30 days, submit the name of the person to fill the
165 vacancy to the county legislative body.

166 (iii) The county legislative body shall no later than five days after the day on which a
167 party liaison submits the name of the person to fill the vacancy appoint the person to serve out
168 the unexpired term.

169 (c) (i) If the county legislative body fails to appoint a person to fill the vacancy in
170 accordance with Subsection [~~(6)~~] (7)(b)(iii), the county clerk shall send to the governor a letter
171 that:

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

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

175 (ii) The governor shall appoint the person named by the party liaison to fill the vacancy
176 within 30 days after receipt of the letter.

177 (d) A person appointed to fill the vacancy under this Subsection [~~(6)~~] (7) shall hold
178 office until their successor is elected and has qualified.

179 [~~(7)~~] (8) Except as otherwise provided by law, the county legislative body may appoint
180 replacements to fill all vacancies that occur in those offices filled by appointment of the county

181 legislative body.

182 ~~[(8)]~~ (9) Nothing in this section prevents or prohibits independent candidates from
183 filing a declaration of candidacy for the office within the same time limits.

184 ~~[(9)]~~ (10) (a) Each person elected under Subsection [~~(3), (4), or (5)]~~ (4), (5), or (6) to
185 fill a vacancy in a county office shall serve for the remainder of the unexpired term of the
186 person who created the vacancy and until a successor is elected and qualified.

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