

1 **TEMPORARY REPLACEMENTS FOR COUNTY OFFICES**

2 2019 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Val K. Potter**

5 Senate Sponsor: Deidre M. Henderson

7 **LONG TITLE**

8 **General Description:**

9 This bill amends provisions related to the processes to fill a vacancy in a county office.

10 **Highlighted Provisions:**

11 This bill:

12 ▶ exempts the offices of county legislative body member and a certain type of county
13 executive from provisions that allow a temporary manager to fill the office in the
14 event of a vacancy;

15 ▶ establishes deadlines by which certain actions must be completed in the process to
16 fill a vacancy in a county office;

17 ▶ establishes provisions related to an unaffiliated or write-in candidate's access to the
18 ballot to fill a vacancy in a county office; and

19 ▶ makes technical changes.

20 **Money Appropriated in this Bill:**

21 None

22 **Other Special Clauses:**

23 None

24 **Utah Code Sections Affected:**

25 AMENDS:

26 **20A-1-508**, as last amended by Laws of Utah 2018, Chapters 68 and 199



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

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

30 **20A-1-508. Midterm vacancies in county elected offices -- Temporary manager --**
31 **Interim replacement.**

32 (1) As used in this section:

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

36 (ii) "County offices" does not include the office of county attorney, district attorney, or
37 judge.

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

41 (2) (a) ~~Until~~ Except as provided in Subsection (2)(d), until a county legislative body
42 appoints an interim replacement to fill a vacant county office under Subsection (3), the
43 following shall temporarily ~~fill~~ discharge the duties of the county office as a temporary
44 manager:

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

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

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

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

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

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

57 (B) if two or more management-level employees serving under the county office have
58 the same and highest-seniority management level, the highest-seniority management-level

59 employee with the most cumulative time served in the employee's current position; or

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

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

68 (c) The temporary manager described in Subsection (2)(a) who temporarily ~~fills~~
69 discharges the duties of a county office:

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

71 (ii) shall comply with Title 17, Chapter 36, Uniform Fiscal Procedures Act for
72 Counties, and the county's budget ordinances and policies;

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

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

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

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

80 (B) applicable law;

81 (vi) unless approved by the county legislative body, may not exceed by more than 5%
82 an expenditure that was planned before the county office ~~that~~ for which the temporary
83 manager ~~fills~~ discharges duties was vacated;

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

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

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

89 and

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

91 (d) This Subsection (2) does not apply to a vacancy in the office of ~~H~~ → [;

92 ~~(f)~~ ←H county legislative body member H → [; or

93 ~~(ii) county executive in a county that operates under the county executive-council form~~

94 ~~of government described in Section 17-52a-203~~ ←H .

95 (3) (a) Until a replacement is selected as provided in this section and has qualified, the
96 county legislative body shall appoint an interim replacement to fill the vacant office by
97 following the procedures and requirements of this Subsection (3).

98 (b) (i) To appoint an interim replacement, the county legislative body shall, within 10
99 days after the day on which the vacancy occurs, give notice of the vacancy to the party liaison
100 of the same political party of the prior office holder and invite that party liaison to submit the
101 name of ~~[a person]~~ an individual to fill the vacancy.

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

105 (ii) That party liaison shall, within 30 days after the day on which the liaison receives
106 the notice described in Subsection (3)(b)(i), or if the party liaison does not receive the notice,
107 within 40 days after the day on which the vacancy occurs, submit to the county legislative body
108 the name of an individual the party selects in accordance with the party's constitution or bylaws
109 to serve as the interim replacement.

110 (iii) The county legislative body shall, no later than five days after the day on which a
111 party liaison submits the name of the ~~[person for]~~ individual to serve as the interim
112 replacement, appoint the ~~[person]~~ individual to serve out the unexpired term.

113 (c) (i) If the county legislative body fails to appoint an interim replacement to fill the
114 vacancy in accordance with Subsection (3)(b)(iii), the county clerk shall, no later than five days
115 after the day of the deadline described in Subsection (3)(b)(iii), send to the governor a letter
116 that:

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

119 (B) contains the name of the ~~[person to fill the vacancy]~~ individual submitted by the
120 party liaison to fill the vacancy.

121 (ii) The governor shall, within 10 days after the day on which the governor receives the
 122 letter described in Subsection (3)(c)(i), appoint the [person] individual named by the party
 123 liaison as an interim replacement to fill the vacancy [within 30 days after receipt of the letter].

124 (d) ~~[A person]~~ An individual appointed as interim replacement under this Subsection
 125 (3) shall hold office until ~~[their]~~ a successor is elected and has qualified.

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

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

129 (ii) the vacancy occurs after the election at which the ~~[person]~~ officeholder was elected
 130 but before ~~[April 10]~~ the second Friday in March of the next even-numbered year.

131 (b) (i) When the conditions ~~[established]~~ described in Subsection (4)(a) are met, the
 132 county clerk shall ~~Ĥ→ [s]~~ as soon as practicable, but ←Ĥ no later than 180 days before the next
 132a regular general election, notify the
 133 public and each registered political party that the vacancy exists.

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

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

137 (B) for a county commission office, Subsection ~~17-52a-201(6)~~ or ~~17-52a-202(6)~~, if
 138 applicable.

139 (iii) An individual who is nominated as a party candidate ~~[for the vacant office or~~
 140 ~~qualified as an independent or write-in candidate under Chapter 8, Political Party Formation~~
 141 ~~and Procedures, for the vacant office]~~, who qualifies as an unaffiliated candidate for the vacant
 142 office under Chapter 9, Part 5, Candidates not Affiliated with a Party, or who qualifies as a
 143 write-in candidate for the vacant office under Chapter 9, Part 6, Write-in Candidates, shall run
 144 in the regular general election.

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

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

148 (ii) the vacancy occurs ~~[after April 9]~~ on or after the second Friday in March of the
 149 next even-numbered year but more than 75 days before the regular primary election.

150 (b) ~~[Ĥ]~~ When the conditions ~~[established]~~ described in Subsection (5)(a) are met, the
 151 county clerk shall as soon as practicable, but no later than 70 days before the next regular

152 primary election, notify the public and each registered political party [~~that~~]:

153 ~~[(A)]~~ (i) that the vacancy exists; and

154 ~~[(B) identifies the date and time by which a person interested in becoming a candidate~~
155 ~~shall file a declaration of candidacy.]~~

156 (ii) of the deadlines described in Subsection (5)(c)(i) and the deadlines established
157 under Subsection (5)(d)(ii).

158 ~~[(ii)]~~ (c) (i) An individual intending to become a party candidate for a vacant office
159 shall, within five days after the ~~[date that the notice is made]~~ day on which the notice is given,
160 ending at the close of normal office hours on the fifth day, file a declaration of candidacy for
161 the vacant office in accordance with:

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

163 (B) for a county commission office, Subsection 17-52a-201(6) or 17-52a-202(6), if
164 applicable.

165 ~~[(iii)]~~ (ii) The county central committee of each party shall:

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

168 (B) certify the name of the candidate or candidates to the county clerk ~~[at least]~~ as soon
169 as practicable, but no later than 60 days before the regular primary election.

170 (d) (i) Except as provided in Subsection (5)(d)(ii), an individual intending to become a
171 candidate for a vacant office who does not wish to affiliate with a registered political party
172 shall file a verified certificate of nomination described in Section 20A-9-502 with the county
173 clerk in accordance with Chapter 9, Part 5, Candidates not Affiliated with a Party.

174 (ii) (A) The county clerk shall establish, in the clerk's reasonable discretion, a deadline ~~Ĥ~~→
174a that is not later than 65 days before the day of the next regular general election ←~~Ĥ~~
175 by which an individual who is not affiliated with a registered political party is required to
176 submit a certificate of nomination under Subsection (5)(d)(i).

177 (B) The county clerk shall establish the deadline described in Subsection (5)(d)(ii)(A)
178 in a manner that gives an unaffiliated candidate an equal opportunity to access the regular
179 general election ballot.

180 (e) An individual who is nominated as a party candidate for the vacant office, who
181 qualifies as an unaffiliated candidate for the vacant office under Chapter 9, Part 5, Candidates
182 not Affiliated with a Party, or who qualifies as a write-in candidate for the vacant office under

183 Chapter 9, Part 6, Write-in Candidates, shall run in the regular general election.

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

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

187 (ii) when 75 days or less remain before the regular primary election but more than 65
188 days remain before the regular general election.

189 (b) When the conditions ~~[established]~~ described in Subsection (6)(a) are met, the
190 county ~~[central committees]~~ clerk shall, as soon as practicable, notify the public and each
191 registered political party:

192 (i) that the vacancy exists; and

193 (ii) of the deadlines established under Subsection (6)(d).

194 (c) (i) Before the deadline that the county clerk establishes under Subsection
195 (6)(d)(i)(A), the county central committee of each registered political party [registered under
196 this title] that wishes to submit a candidate for the office shall [summarily] certify the name of
197 one candidate to the county clerk for placement on the regular general election ballot.

198 (ii) Before the deadline that the county clerk establishes under Subsection (6)(d)(i)(B),
199 a candidate who does not wish to affiliate with a registered political party shall file a verified
200 certificate of nomination described in Section 20A-9-502 with the county clerk in accordance
201 with Chapter 9, Part 5, Candidates not Affiliated with a Party.

202 (iii) Before the deadline that the county clerk establishes under Subsection (6)(d)(i)(C),
203 a write-in candidate shall submit to the county clerk a declaration of candidacy described in
204 Section 20A-9-601.

205 (d) (i) The county clerk shall establish, in the clerk's reasonable discretion, deadlines ~~H→~~
205a **that are not later than 65 days before the day of the next regular general election ←H** by
206 which:

207 (A) a registered political party is required to certify a name under Subsection (6)(c)(i);

208 (B) an individual who does not wish to affiliate with a registered political party is
209 required to submit a certificate of nomination under Subsection (6)(c)(ii); and

210 (C) a write-in candidate is required to submit a declaration of candidacy under
211 Subsection (6)(c)(iii).

212 (ii) The county clerk shall establish deadlines under Subsection (6)(d)(i) in a manner
213 that gives an unaffiliated candidate or a write-in candidate an equal opportunity to access the

214 regular general election ballot.

215 (e) An individual who is certified as a party candidate for the vacant office, who
216 qualifies as an unaffiliated candidate for the vacant office under Chapter 9, Part 5, Candidates
217 not Affiliated with a Party, or who qualifies as a write-in candidate for the vacant office under
218 Chapter 9, Part 6, Write-in Candidates, shall run in the regular general election.

219 (7) (a) The requirements of this Subsection (7) apply to all county offices that become
220 vacant:

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

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

224 (b) (i) When the conditions [~~established~~] described in Subsection (7)(a) are met, the
225 county legislative body shall as soon as practicable, but no later than 10 days after the day on
226 which the vacancy occurs, give notice of the vacancy to the party liaison of the same political
227 party as the prior office holder and invite that party liaison to submit the name of [~~a person~~] an
228 individual to fill the vacancy.

229 (ii) That party liaison shall, within 30 days [~~, submit the name of the person to fill the~~
230 ~~vacancy to the county legislative body]~~ after the day on which the party liaison receives the
231 notice described in Subsection (7)(b)(i), or if the party liaison does not receive the notice, no
232 later than 40 days after the day on which the vacancy occurs, submit to the county legislative
233 body the name of an individual to fill the vacancy.

234 (iii) The county legislative body shall, no later than five days after the day on which a
235 party liaison submits the name of the [~~person~~] individual to fill the vacancy, appoint the
236 [~~person~~] individual to serve out the unexpired term.

237 (c) (i) If the county legislative body fails to appoint [~~a person~~] an individual to fill the
238 vacancy in accordance with Subsection (7)(b)(iii), the county clerk shall send to the governor a
239 letter that:

240 (A) informs the governor that the county legislative body has failed to appoint [~~a~~
241 ~~person~~] an individual to fill the vacancy within the statutory time period; and

242 (B) contains the name of the [~~person~~] individual submitted by the party liaison to fill
243 the vacancy [~~submitted by the party liaison~~].

244 (ii) The governor shall, within 10 days after the day on which the governor receives the

245 letter described in Subsection (7)(c)(i), appoint the [person] individual named by the party
246 liaison to fill the vacancy [~~within 30 days after receipt of the letter~~].

247 (d) [~~A person~~] An individual appointed to fill the vacancy under this Subsection (7)
248 shall hold office until [~~their~~] a successor is elected and has qualified.

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

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

254 (9) Nothing in this section prohibits a candidate that does not wish to affiliate with a
255 political party from filing a certificate of nomination for a vacant office within the same time
256 limits as a candidate that is affiliated with a political party.

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

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