

Senator Deidre M. Henderson proposes the following substitute bill:

TEMPORARY REPLACEMENTS FOR COUNTY OFFICES

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Val K. Potter

Senate Sponsor: Deidre M. Henderson

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

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

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

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

- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:



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

27 Utah Code Sections Affected by Coordination Clause:

28 20A-1-508, as last amended by Laws of Utah 2018, Chapters 68 and 199



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

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

32 **20A-1-508. Midterm vacancies in county elected offices -- Temporary manager --**
33 **Interim replacement.**

34 (1) As used in this section:

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

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

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

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

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

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

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

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

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

56 (A) if one management-level employee serving under the county office has a

57 higher-seniority management level than any other employee serving under the county office,
58 that management-level employee;

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

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

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

70 (c) The temporary manager described in Subsection (2)(a) who temporarily ~~[fills]~~
71 discharges the duties of a county office:

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

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

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

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

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

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

82 (B) applicable law;

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

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

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

90 (A) the county legislative body appoints an interim replacement under Subsection (3);
91 and

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

93 (d) This Subsection (2) does not apply to a vacancy in the office of county legislative
94 body member.

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 as soon as practicable, but no later than 180 days before the next regular
133 general election, notify the 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) ~~(i)~~ 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
175 that is not later than 65 days before the day of the next regular general election by which an
176 individual who is not affiliated with a registered political party is required to submit a
177 certificate of nomination under Subsection (5)(d)(i).

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

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

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

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

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

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

193 (i) that the vacancy exists; and

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

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

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

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

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

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

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

211 (C) a write-in candidate is required to submit a declaration of candidacy under

212 Subsection (6)(c)(iii).

213 (ii) The county clerk shall establish deadlines under Subsection (6)(d)(i) in a manner
214 that gives an unaffiliated candidate or a write-in candidate an equal opportunity to access the
215 regular general election ballot.

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

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

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

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

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

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

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

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

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

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

245 (ii) The governor shall, within 10 days after the day on which the governor receives the
246 letter described in Subsection (7)(c)(i), appoint the [person] individual named by the party
247 liaison to fill the vacancy [within 30 days after receipt of the letter].

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

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

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

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

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

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

263 Section 2. **Coordinating H.B. 171 with S.B. 33 -- Substantive and technical**
264 **amendments.**

265 If this H.B. 171 and S.B. 33, Political Procedures Amendments, both pass and become
266 law, it is the intent of the Legislature that the Office of Legislative Research and General
267 Counsel shall prepare the Utah Code database for publication, as follows:

268 (1) Subsection 20A-1-508(3)(b)(ii) in this H.B. 171 is amended to read:

269 "(ii) That party liaison shall, before 5 p.m. within 30 days after the day on which the
270 liaison receives the notice described in Subsection (3)(b)(i), or if the party liaison does not
271 receive the notice, before 5 p.m. within 40 days after the day on which the vacancy occurs,
272 submit to the county legislative body the name of an individual the party selects in accordance
273 with the party's constitution or bylaws to serve as the interim replacement.";

274 (2) Subsection 20A-1-508(5)(c)(ii)(B) in this H.B. 171 is amended to read:

275 "(B) certify the name of the candidate or candidates to the county clerk [at least] as soon
276 as practicable, but before 5 p.m. no later than 60 days before the day of the regular primary
277 election.";

278 (3) Subsection 20A-1-508(5)(d)(ii)(A) in this H.B. 171 is amended to read:

279 "(ii) (A) The county clerk shall establish, in the clerk's reasonable discretion, a deadline
280 that is before 5 p.m. no later than 65 days before the day of the next regular general election by
281 which an individual who is not affiliated with a registered political party is required to submit a
282 certificate of nomination under Subsection (5)(d)(i).";

283 (4) Subsection 20A-1-508(6)(d)(i) in this H.B. 171 is amended to read:

284 "(d) (i) The county clerk shall establish, in the clerk's reasonable discretion, deadlines
285 that are before 5 p.m. no later than 65 days before the day of the next regular general election
286 by which:

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

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

290 (C) a write-in candidate is required to submit a declaration of candidacy under
291 Subsection (6)(c)(iii)."; and

292 (5) Subsection 20A-1-508(7)(b)(ii) in this H.B. 171 is amended to read:

293 "(ii) That party liaison shall, before 5 p.m. within 30 days[~~, submit the name of the~~
294 person to fill the vacancy to the county legislative body] after the day on which the party liaison
295 receives the notice described in Subsection (7)(b)(i), or if the party liaison does not receive the
296 notice, before 5 p.m. no later than 40 days after the day on which the vacancy occurs, submit to
297 the county legislative body the name of an individual to fill the vacancy.".