

NATIONAL GUARD TRAINING AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Val L. Peterson

Senate Sponsor: David G. Buxton

LONG TITLE

General Description:

This bill modifies provisions related to public officials who are deployed.

Highlighted Provisions:

This bill:

- ▶ sets out the requirements for a public official who is deployed with the armed forces.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

20A-1-513, as last amended by Laws of Utah 2019, Chapter 255

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

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

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

(1) As used in this section:

(a) "Armed forces" means:

(i) the Army of the United States;

(ii) the United States Navy;

- 30 (iii) the United States Air Force;
- 31 (iv) the Marine Corps;
- 32 (v) the Coast Guard;
- 33 (vi) the National Guard; or
- 34 (vii) a reserve or auxiliary of an entity listed in Subsections (1)(a)(i) through (vi).
- 35 (b) (i) "Elected official" is a person who holds an office of a political subdivision that
- 36 is required by law to be filled by an election.
- 37 (ii) "Elected official" includes a person who is appointed to fill a vacancy in an office
- 38 described in Subsection (1)(b)(i).
- 39 (c) (i) "Military leave" means the temporary absence from an office:
- 40 (A) by an elected official called to active, full-time duty in the armed forces; and
- 41 (B) for a period of time that exceeds 30 days and does not exceed 400 days.
- 42 (ii) "Military leave" includes the time a person described in Subsection (1)(c)(i) spends
- 43 for:
- 44 (A) out processing;
- 45 (B) an administrative delay;
- 46 (C) accrued leave; and
- 47 (D) on rest and recuperation leave program of the armed forces.
- 48 (d) "Political subdivision's governing body" means:
- 49 (i) for a county, city, or town, the legislative body of the county, city, or town;
- 50 (ii) for a local district, the board of trustees of the local district;
- 51 (iii) for a local school district, the local school board;
- 52 (iv) for a special service district:
- 53 (A) the legislative body of the county, city, or town that established the special service
- 54 district, if no administrative control board has been appointed under Section 17D-1-301; or
- 55 (B) the administrative control board of the special service district, if an administrative
- 56 control board has been appointed under Section 17D-1-301; and
- 57 (v) for a political subdivision not listed in Subsections (1)(d)(i) through (iv), the body

58 that governs the affairs of the political subdivision.

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

62 (2) An elected official creates a vacancy in the elected official's office if the elected
63 official is called to active, full-time duty in the armed forces in accordance with Title 10,
64 U.S.C.A. unless the elected official takes military leave as provided by this section.

65 (3) (a) An elected official who is called to active, full-time duty in the armed forces in
66 a status other than in accordance with Title 10, U.S.C.A. shall notify the political subdivision's
67 governing body of the elected official's orders not later than five days after receipt of orders.

68 (b) The elected official described in Subsection (3)(a) may:

69 (i) continue to carry out the official's duties if possible while on active, full-time duty;

70 or

71 (ii) take military leave if the elected official submits to the political subdivision's
72 governing body written notice of the intent to take military leave and the expected duration of
73 the military leave~~[-, by the later of:].~~

74 [~~(a) 21 days before the military leave begins; or~~]

75 [~~(b) the next business day after which the elected official receives an order from the~~
76 ~~armed forces calling the elected official to active, full-time duty.]~~

77 (4) (a) An elected official who chooses to continue to carry out the official's duties
78 while on active, full-time duty shall, within 10 days after arrival at the official's place of
79 deployment, confirm in writing to the political subdivision's governing body that the official
80 has the ability to carry out the official's duties.

81 (b) If no confirmation is received by the political subdivision within the time period
82 described in Subsection (4)(a), the elected official shall be placed in a military leave status and
83 a temporary replacement appointed in accordance with Subsection (6).

84 [~~(4)~~] (5) An elected official's military leave:

85 (a) begins the later of:

86 (i) the day after the day on which the elected official notifies the political subdivision's
87 governing body of the intent to take military leave;

88 (ii) day 11 after the elected official's deployment if no confirmation is received in
89 accordance with Subsection (4)(a); or

90 (iii) the day on which the elected official begins active, full-time duty in the armed
91 forces; and

92 (b) ends the sooner of:

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

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

95 ~~[(5)]~~ (6) A temporary replacement shall:

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

97 (b) be appointed:

98 ~~[(i) before the day on which the military leave begins; and]~~

99 ~~[(ii)(A)]~~ (i) in the same manner as provided by this part for a midterm vacancy if a
100 registered political party nominated the elected official who takes military leave as a candidate
101 for the office; or

102 ~~[(B)]~~ (ii) by the political subdivision's governing body after submitting an application
103 in accordance with Subsection ~~[(7)]~~ (8)(b) if a registered political party did not nominate the
104 elected official who takes military leave as a candidate for office.

105 ~~[(6)]~~ (7) (a) A temporary replacement shall exercise the powers and duties of the office
106 for which the temporary replacement is appointed for the duration of the elected official's
107 military leave.

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

110 (c) If a temporary replacement is not appointed ~~[before the day on which the military~~
111 ~~leave begins]~~ as required by Subsection ~~[(5)(b)(i)]~~ (6)(b), no person may exercise the powers
112 and duties of the elected official's office during the elected official's military leave.

113 ~~[(7)]~~ (8) The political subdivision's governing body shall establish:

114 (a) the distribution of the emoluments of the office between the elected official and the
115 temporary replacement; and

116 (b) an application form and the date and time before which a person shall submit the
117 application to be considered by the political subdivision's governing body for appointment as a
118 temporary replacement.