

**MUNICIPAL OFFICE MODIFICATIONS**

2023 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Douglas R. Welton**

Senate Sponsor: Wayne A. Harper

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**LONG TITLE**

**Committee Note:**

The Political Subdivisions Interim Committee recommended this bill.

Legislative Vote: 12 voting for 0 voting against 4 absent

**General Description:**

This bill modifies provisions related to filling a vacancy in a municipal office.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ modifies notice requirements;
- ▶ modifies the procedure for filling vacancies in certain circumstances;
- ▶ authorizes a member of a municipal legislative body whose resignation creates a vacancy in the municipal legislative body to, with certain exceptions, vote for the member's replacement;
- ▶ prohibits a member of a legislative body from rescinding a resignation;
- ▶ prohibits a member of a legislative body from voting for oneself to fill a vacancy in the municipal legislative body; and
- ▶ makes conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**



28 None

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **10-3-507**, as last amended by Laws of Utah 2014, Chapter 338

32 **20A-1-510**, as last amended by Laws of Utah 2017, Chapter 91



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

35 Section 1. Section **10-3-507** is amended to read:

36 **10-3-507. Minimum vote required.**

37 (1) The minimum number of yes votes required to pass any ordinance or resolution, or  
38 to take any action by the council, unless otherwise prescribed by law, is a majority of the voting  
39 members of the council, regardless of absence or vacancy.

40 (2) (a) Any ordinance, resolution, or motion of the council having fewer favorable  
41 votes than required in this section is defeated and invalid.

42 (b) Notwithstanding Subsection (2)(a), a council meeting may be adjourned to a  
43 specific time by a majority vote of the council even though the majority vote is less than that  
44 required in this section.

45 (3) If a vacancy exists in one or more council seats, a majority of the council members  
46 [~~presently occupying council seats, regardless of number,~~] may vote to fill the vacancy as  
47 provided under Section **20A-1-510**.

48 Section 2. Section **20A-1-510** is amended to read:

49 **20A-1-510. Midterm vacancies in municipal offices.**

50 (1) (a) As used in this section:

51 (i) "Vacancy," subject to Subsection (1)(a)(ii), means the same as that term is defined  
52 in Section **20A-1-102**.

53 (ii) "Vacancy," if due to resignation, occurs on the effective date of the resignation.

54 ~~(a)~~ (b) Except as otherwise provided in [~~Subsection (2)~~] this section, if any vacancy  
55 occurs in the office of municipal executive or member of a municipal legislative body, the  
56 municipal legislative body shall, within 30 calendar days after the day on which the vacancy  
57 occurs, appoint a registered voter in the municipality who meets the qualifications for office  
58 described in Section **10-3-301** to fill the unexpired term of the vacated office.

59           ~~[(b)]~~ (c) Before acting to fill the vacancy, the municipal legislative body shall:  
60           (i) give public notice of the vacancy at least ~~[two weeks]~~ 14 calendar days before the  
61 day on which the municipal legislative body meets to fill the vacancy;

62           (ii) identify, in the notice:

63           (A) the date, time, and place of the meeting where the vacancy will be filled;

64           (B) the person to whom an individual interested in being appointed to fill the vacancy  
65 may submit the interested individual's name for consideration; and

66           (C) the deadline for submitting an interested individual's name; and

67           (iii) in an open meeting, interview each individual whose name is submitted for  
68 consideration, and who meets the qualifications for office, regarding the individual's  
69 qualifications.

70           ~~[(e)(i) If, for any reason, the municipal legislative body does not fill the vacancy  
71 within 30 days after the day on which the vacancy occurs, the municipal legislative body shall  
72 fill the vacancy from among the names that have been submitted.]~~

73           ~~[(ii) The two individuals having the highest number of votes of the municipal  
74 legislative body after a first vote is taken shall appear before the municipal legislative body and  
75 the municipal legislative body shall vote again.]~~

76           ~~[(iii) If neither candidate receives a majority vote of the municipal legislative body at  
77 that time, the vacancy shall be filled by lot in the presence of the municipal legislative body.]~~

78           (d)(i) If no candidate receives a majority vote of the municipal legislative body, the  
79 names of the two candidates having the highest number of votes after the first vote shall be  
80 placed before the municipal legislative body for another vote.

81           (ii) If neither candidate receives a majority vote under Subsection (1)(d)(i), the vacancy  
82 shall be filled by one of the remaining candidates, by lot, conducted by the municipal clerk or  
83 recorder in the presence of the municipal legislative body.

84           (e) If the municipal legislative body does not timely comply with Subsections (1)(b)  
85 through (d), the municipal clerk or recorder shall immediately notify the lieutenant governor.

86           (f) After receiving notice that a municipal legislative body has failed to timely comply  
87 with Subsections (1)(b) through (d), the lieutenant governor shall:

88           (i) notify the municipal legislative body of the violation; and

89           (ii) direct the municipal legislative body to, within 30 calendar days after the day on

90 which the lieutenant governor provides the notice described in this Subsection (1)(f), appoint  
91 an eligible individual to fill the vacancy in accordance with Subsections (1)(c) and (d).

92 (g) If the municipality fails to timely comply with a directive described in Subsection  
93 (1)(f):

94 (i) the lieutenant governor shall notify the governor of the municipality's failure to fill  
95 the vacancy; and

96 (ii) the governor shall, within 45 days after the day on which the governor receives the  
97 notice described in Subsection (1)(g)(i), provide public notice soliciting candidates to fill the  
98 vacancy in accordance with Subsection (1)(c) and appoint an individual to fill the vacancy.

99 (2) (a) A vacancy in the office of municipal executive or member of a municipal  
100 legislative body shall be filled by an interim appointment, followed by an election to fill a  
101 two-year term, if:

102 (i) the vacancy occurs, or a letter of resignation is received, by the municipal executive  
103 at least 14 days before the deadline for filing for election in an odd-numbered year; and

104 (ii) two years of the vacated term will remain after the first Monday of January  
105 following the next municipal election.

106 (b) In appointing an interim replacement, the municipal legislative body shall:

107 (i) comply with the notice requirements of this section; and

108 (ii) in an open meeting, interview each individual whose name is submitted for  
109 consideration, and who meets the qualifications for office, regarding the individual's  
110 qualifications.

111 (3) (a) In a municipality operating under the council-mayor form of government, as  
112 defined in Section 10-3b-102:

113 (i) the council may appoint an individual to fill a vacancy in the office of mayor before  
114 the effective date of the mayor's resignation by making the effective date of the appointment  
115 the same as the effective date of the mayor's resignation; and

116 (ii) if a vacancy in the office of mayor occurs before the effective date of an  
117 appointment under Subsection (1) or (2) to fill the vacancy, the ~~[council chair]~~ remaining  
118 council members, by majority vote, shall appoint a council member to serve as acting mayor  
119 during the time between the creation of the vacancy and the effective date of the appointment  
120 to fill the vacancy.

121 (b) [~~White~~] A council member serving as acting mayor under Subsection (3)(a)(ii)[~~, the~~  
122 ~~council chair~~] continues to:

123 (i) act as a council member; and

124 (ii) vote at council meetings.

125 (4) (a) (i) For a vacancy of a member of a municipal legislative body as described in  
126 this section, the municipal legislative body member whose resignation creates the vacancy on  
127 the municipal legislative body may:

128 (A) interview an individual whose name is submitted for consideration under  
129 Subsection (1)(c)(iii) or (2)(b)(ii); and

130 (B) vote on the appointment of an individual to fill the vacancy.

131 (ii) Notwithstanding Subsection (4)(a)(i), a member of a legislative body who is  
132 removed from office in accordance with state law may not cast a vote under Subsection  
133 (4)(a)(i).

134 (b) A member of a municipal legislative body who submits his or her resignation to the  
135 municipal legislative body may not rescind the resignation.

136 (c) A member of a municipal legislative body may not vote on an appointment under  
137 this section for himself or herself to fill a vacancy in the municipal legislative body.

138 (5) In a municipality operating under the six-member council form of government or  
139 the council-manager form of government, defined in Subsection [10-3b-103\(7\)](#), if the voting  
140 members of the city council reach a tie vote on a matter of filling a vacancy, the mayor may  
141 vote to break the tie.

142 (6) In a municipality operating under the council-mayor form of government, the  
143 mayor may not:

144 (a) participate in the vote to fill a vacancy;

145 (b) veto a decision of the council to fill a vacancy; or

146 (c) vote in the case of a tie.

147 (7) A mayor whose resignation from the municipal legislative body is due to election  
148 or appointment as mayor may, in the case of a tie, participate in the vote under this section.

149 (8) A municipal legislative body may, consistent with the provisions of state law, adopt  
150 procedures governing the appointment, interview, and voting process for filling vacancies in  
151 municipal offices.