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ELECTED OFFICIAL VACANCY AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ryan D. Wilcox

Senate Sponsor: Derrin R. Owens

Cosponsor:	Matthew H. Gwynn	Candice B. Pierucci
Jefferson S. Burton	Jon Hawkins	



LONG TITLE

General Description:

This bill addresses elected officials of political subdivisions who are reservists of the armed forces.

Highlighted Provisions:

This bill:

- defines terms;
- conforms to U.S. Department of Defense policy directives regarding members of the armed forces reserves who hold elective office and who are called to active duty military service by:
 - specifying who qualifies as an armed forces reservist; and
 - permitting an elected official reservist, depending upon the length of active duty service, to continue to exercise the functions of the elected official's office or take a military leave of absence from office;
- clarifies that an elected official reservist who takes a military leave of absence does not create a vacancy in the elected official's office; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26 **20A-1-513**, as last amended by Laws of Utah 2023, Chapter 15

27

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

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

30 **20A-1-513 . Temporary absence in elected office of a political subdivision for**
 31 **military service.**

32 (1) As used in this section:

33 (a) (i) "Armed forces" means the [~~same as that term is defined in Section 68-3-12.5,~~
 34 ~~and includes:] United States Army, Navy, Air Force, Marine Corps, Space Force,~~
 35 ~~and Coast Guard.~~

36 [~~(i)~~] (ii) "Armed forces" includes the National Guard[~~; and~~] .

37 [~~(ii) the national guard and armed forces reserves.]~~

38 (b) (i) "Elected official" [~~is a person~~] means an individual who holds an office of a
 39 political subdivision that is required by law to be filled by an election.

40 (ii) "Elected official" includes [~~a person~~] an individual who is appointed to fill a
 41 vacancy in an office described in Subsection (1)(b)(i).

42 (c) "Elected official reservist" means an elected official who is:

43 (i) a member of the armed forces reserves component;

44 (ii) a member of the National Guard; or

45 (iii) a retired member of the armed forces who may be called to active, full-time duty
 46 in the armed forces under Title 10, U.S.C., Armed Forces.

47 [~~(e)~~] (d) (i) "Military leave" means the temporary absence from an office:

48 (A) by an elected official reservist called to active, full-time duty in the armed
 49 forces; and

50 (B) for a period of time that exceeds 30 days and does not exceed 400 days.

51 (ii) "Military leave" includes the time [~~a person~~] an individual on leave, as described
 52 in Subsection [~~(1)(e)(i)~~] (1)(d)(i), spends for:

53 (A) out processing;

54 (B) an administrative delay;

55 (C) accrued leave; and

56 (D) on rest and recuperation leave program of the armed forces.

57 [~~(d)~~] (e) "Political subdivision's governing body" means:

58 (i) for a county, city, or town, the legislative body of the county, city, or town;

59 (ii) for a special district, the board of trustees of the special district;

- 60 (iii) for a local school district, the local school board;
- 61 (iv) for a special service district:
- 62 (A) the legislative body of the county, city, or town that established the special
- 63 service district, if no administrative control board has been appointed under
- 64 Section 17D-1-301; or
- 65 (B) the administrative control board of the special service district, if an
- 66 administrative control board has been appointed under Section 17D-1-301; and
- 67 (v) for a political subdivision not listed in Subsections ~~[(1)(d)(i)]~~ (1)(e)(i) through
- 68 (iv), the body that governs the affairs of the political subdivision.
- 69 ~~[(e)]~~ (f) "Temporary replacement" means the ~~[person]~~ individual appointed by the
- 70 political subdivision's governing body in accordance with this section to exercise the
- 71 powers and duties of the office of ~~[the]~~ an elected official reservist who takes military
- 72 leave.
- 73 (2) ~~[An elected official creates a vacancy in the elected official's office if the elected official~~
- 74 ~~is called to active, full-time duty in the armed forces in accordance with Title 10,~~
- 75 ~~U.S.C.A. unless the elected official takes military leave as provided by this section.]~~ An
- 76 elected official reservist who takes military leave in accordance with this section does
- 77 not create a vacancy in the elected official's office.
- 78 (3) (a) An elected official reservist who is called to active, full-time duty in the armed
- 79 forces ~~[in a status other than in accordance with]~~ under Title 10, ~~[U.S.C.A]~~ U.S.C.,
- 80 Armed Forces, shall notify the political subdivision's governing body of the elected
- 81 official's orders ~~[not]~~ no later than five days ~~[after receipt of]~~ after the day on which
- 82 the elected official receives the orders.
- 83 (b) ~~[The]~~ An elected official reservist described in Subsection (3)(a) may:
- 84 (i) if the period of active, full-time duty does not exceed 270 days:
- 85 (A) continue to carry out the elected official's duties if possible while on active,
- 86 full-time duty; or
- 87 (B) take military leave if the elected official submits to the political subdivision's
- 88 governing body written notice of the intent to take military leave and the
- 89 expected duration of the military leave; or
- 90 (ii) if the period of active, full-time duty exceeds 270 days but does not exceed 400
- 91 days, take military leave if the elected official submits to the political
- 92 subdivision's governing body:
- 93 (A) written notice of the intent to take military leave and the expected duration of

94 the military leave~~[-]~~ ; and
 95 (B) written certification that the secretary of the armed force of which the elected
 96 official is a member granted the elected official permission under U.S.
 97 Department of Defense Directive 1344.10 to continue to hold the elected
 98 official's office while on active, full-time duty.

99 (4) (a) An elected official reservist who chooses to continue to carry out the elected
 100 official's duties [while on active, full-time duty] under Subsection (3)(b)(i)(A) shall, [
 101 within] no later than 10 days after [arrival at the official's place of deployment] the day
 102 of the elected official's deployment, confirm in writing to the political subdivision's
 103 governing body that the elected official has the ability to carry out the elected
 104 official's duties.

105 (b) If ~~[no confirmation is received by the political subdivision within the time period]~~ an
 106 elected official reservist does not submit the confirmation to the political
 107 subdivision's governing body before the deadline described in Subsection (4)(a), the [
 108 elected official shall be placed] political subdivision's governing body shall:

109 (i) place the elected official in [a] military leave status; and

110 (ii) [a temporary replacement appointed] appoint a temporary replacement in
 111 accordance with Subsection [~~(6)~~] (8).

112 (5) (a) An elected official reservist who chooses to take military leave under Subsection
 113 (3)(b)(ii) shall, no later than 21 days after the date of the elected official's
 114 deployment, submit to the political subdivision's governing body the written notice
 115 and certification described in Subsection (3)(b)(ii).

116 (b) If an elected official reservist does not submit the notice and certification to the
 117 political subdivision's governing body before the deadline described in Subsection
 118 (5)(a):

119 (i) the political subdivision's governing body may not appoint a temporary
 120 replacement under Subsection (8); and

121 (ii) the elected official reservist creates a vacancy in the elected official's office.

122 (6) An elected official reservist who is called to active, full-time duty in the armed forces
 123 under Title 10, U.S.C., Armed Forces, for a period of more than 400 days creates a
 124 vacancy in the elected official's office.

125 [~~(5)~~] (7) An elected ~~[official's-]~~ official reservist's military leave:

126 (a) begins ~~[the later of]:~~

127 (i) for an elected official reservist described in Subsection (3)(b)(i), the later of:

- 128 (A) the day after the day on which the elected official notifies the political
 129 subdivision's governing body of the intent to take military leave;
- 130 ~~[(ii)]~~ (B) ~~[day 11]~~ 11 days after the day of the elected official's deployment if no
 131 confirmation is received~~[-]~~ by the political subdivision's governing body in
 132 accordance with Subsection (4)(a); or
- 133 ~~[(iii)]~~ (C) the day on which the elected official begins active, full-time duty in the
 134 armed forces; ~~[and]~~ or
- 135 (ii) for an elected official reservist described in Subsection (3)(b)(ii), the day after the
 136 day on which the elected official submits to the political subdivision's governing
 137 body the written notice and certification described in Subsection (3)(b)(ii); and
- 138 (b) ends the sooner of:
- 139 (i) the expiration of the elected ~~[official's-]~~ official reservist's term of office; or
- 140 (ii) the day on which the elected official~~[-]~~ reservist ends active, full-time duty in the
 141 armed forces.
- 142 ~~[(6)]~~ (8) A temporary replacement shall:
- 143 (a) meet the qualifications required to hold the office; and
- 144 (b) be appointed:
- 145 (i) when an elected official reservist:
- 146 (A) takes military leave under Subsection (3)(b)(i)(B) or (b)(ii); or
- 147 (B) is placed in military leave status under Subsection (4)(b)(i); and
- 148 (ii) by the political subdivision's governing body:
- 149 (A) [in the same manner as provided by this part for a midterm vacancy-]if a
 150 registered political party nominated the elected official ~~[who takes military~~
 151 ~~leave-]~~ reservist as a candidate for the office, in the same manner as provided in
 152 Subsection 20A-1-508(3) for the appointment of an interim replacement; or
- 153 ~~[(ii)]~~ (B) ~~[by the political subdivision's governing body after submitting an~~
 154 ~~application in accordance with Subsection (8)(b)-]~~ if a registered political party
 155 did not nominate the elected official [who takes military leave] reservist[-] as a
 156 candidate for the office[-], after submitting an application in accordance with
 157 Subsection (10)(b).
- 158 ~~[(7)]~~ (9) (a) A temporary replacement shall exercise the powers and duties of the office
 159 for which the temporary replacement is appointed for the duration of the elected [
 160 ~~official's-]~~ official reservist's military leave.
- 161 (b) An elected ~~[official-]~~ reservist may not exercise the powers or duties of the office

162 while on military leave.

163 (c) If a temporary replacement is not appointed as required by Subsection ~~[(6)(b)]~~ (8)(b),
164 no ~~[person-]~~ individual may exercise the powers and duties of the elected ~~[official's-]~~
165 official reservist's office during the elected official's military leave.

166 ~~[(8)]~~ (10) The political subdivision's governing body shall establish:

167 (a) the distribution of the emoluments of the office between the elected official~~[-]~~ reservist
168 and the temporary replacement; and

169 (b) an application form and the date and time before which ~~[a person-]~~ an individual shall
170 submit the application to be considered by the political subdivision's governing body
171 for appointment as a temporary replacement.

172 (11) This section does not apply to an elected official who is not an elected official reservist.

173 Section 2. **Effective date.**

174 This bill takes effect on May 1, 2024.