

COUNTY OFFICE VACANCIES

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Carl Wimmer

Senate Sponsor: Wayne L. Niederhauser

LONG TITLE

General Description:

This bill amends provisions related to midterm vacancies in county elected offices.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ amends provisions related to midterm vacancies in county elected offices;
- ▶ amends provisions related to a party liaison; and
- ▶ makes technical corrections.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

20A-1-508, as last amended by Laws of Utah 2010, Chapter 197

20A-8-401, as last amended by Laws of Utah 2010, Chapter 177

20A-8-402, as last amended by Laws of Utah 1999, Chapter 49

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

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



28 **20A-1-508. Midterm vacancies in county elected offices.**

29 (1) As used in this section:

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

33 ~~[(b)]~~ (ii) "County offices" does not mean the offices of president and vice president of
34 the United States, United States senators and representatives, members of the Utah Legislature,
35 state constitutional officers, county attorneys, district attorneys, and judges.

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

39 (2) (a) Until a replacement is selected as provided in this section and has qualified, the
40 county legislative body shall appoint an interim replacement to fill the vacant office by
41 following the procedures and requirements of this Subsection (2).

42 (b) (i) To appoint an interim replacement, the county legislative body shall give notice
43 of the vacancy to the ~~[county central committee]~~ party liaison of the same political party of the
44 prior office holder and invite that ~~[committee]~~ party liaison to submit the ~~[names of three~~
45 ~~nominees]~~ name of a person to fill the vacancy.

46 (ii) That ~~[county central committee]~~ party liaison shall, within 30 days, submit the
47 ~~[names of three nominees]~~ name of the person ~~Ĥ~~→ **selected in accordance with the party**
47a **constitution or bylaws as described in Section 20A-8-401** ←~~Ĥ~~ for the interim replacement to the
47b county
48 legislative body.

49 (iii) The county legislative body shall ~~[, within 45 days after the vacancy occurs,~~
50 ~~appoint one of those nominees]~~ no later than five days after the day on which a party liaison
51 submits the name of the person for the interim replacement appoint the person to serve out the
52 unexpired term.

53 (c) (i) If the county legislative body fails to appoint an interim replacement to fill the
54 vacancy ~~[within 45 days]~~ in accordance with Subsection (2)(b)(iii), the county clerk shall send
55 to the governor a letter that:

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

58 (B) contains the ~~[list of nominees]~~ name of the person to fill the vacancy submitted by

59 the ~~[party central committee]~~ party liaison.

60 (ii) The governor shall appoint the person named by the party liaison as an interim
61 replacement ~~[from that list of nominees]~~ to fill the vacancy within 30 days after receipt of the
62 letter.

63 (d) A person appointed as interim replacement under this Subsection (2) shall hold
64 office until their successor is elected and has qualified.

65 (3) (a) The requirements of this Subsection (3) apply to all county offices that become
66 vacant if:

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

68 (ii) the vacancy occurs after the election at which the person was elected but before
69 April 10 of the next even-numbered year.

70 (b) (i) When the conditions established in Subsection (3)(a) are met, the county clerk
71 shall notify the public and each registered political party that the vacancy exists.

72 (ii) All persons intending to become candidates for the vacant office shall:

73 (A) file a declaration of candidacy according to the procedures and requirements of
74 Chapter 9, Part 2, Candidate Qualifications and Declarations of Candidacy; and

75 (B) if nominated as a party candidate or qualified as an independent or write-in
76 candidate under Chapter 8, Political Party Formation and Procedures, run in the regular general
77 election.

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

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

81 (ii) the vacancy occurs after April 9 of the next even-numbered year but more than 50
82 days before the regular primary election.

83 (b) (i) When the conditions established in Subsection (4)(a) are met, the county clerk
84 shall notify the public and each registered political party that:

85 (A) the vacancy exists; and

86 (B) identifies the date and time by which a person interested in becoming a candidate
87 must file a declaration of candidacy.

88 (ii) All persons intending to become candidates for the vacant offices shall, within five
89 days after the date that the notice is made, ending at the close of normal office hours on the

90 fifth day, file a declaration of candidacy for the vacant office as required by Chapter 9, Part 2,
91 Candidate Qualifications and Declarations of Candidacy.

92 (iii) The county central committee of each party shall:

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

95 (B) certify the name of the candidate or candidates to the county clerk at least 35 days
96 before the regular primary election.

97 (5) (a) The requirements of this Subsection (5) apply to all county offices that become
98 vacant:

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

100 (ii) when 50 days or less remain before the regular primary election but more than 50
101 days remain before the regular general election.

102 (b) When the conditions established in Subsection (5)(a) are met, the county central
103 committees of each political party registered under this title that wishes to submit a candidate
104 for the office shall summarily certify the name of one candidate to the county clerk for
105 placement on the regular general election ballot.

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

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

109 (ii) if the vacant office has an unexpired term of two years or more but 50 days or less
110 remain before the next regular general election.

111 (b) (i) When the conditions established in Subsection (6)(a) are met, the county
112 legislative body shall give notice of the vacancy to the ~~[county central committee]~~ party liaison
113 of the same political party as the prior office holder and invite that ~~[committee]~~ party liaison to
114 submit the ~~[names of three nominees]~~ name of a person to fill the vacancy.

115 (ii) That ~~[county central committee]~~ party liaison shall, within 30 days, submit the
116 ~~[names of three nominees]~~ name of the person to fill the vacancy to the county legislative body.

117 (iii) The county legislative body shall ~~[within 45 days after the vacancy occurs,~~
118 ~~appoint one of those nominees]~~ no later than five days after the day on which a party liaison
119 submits the name of the person to fill the vacancy appoint the person to serve out the unexpired
120 term.

121 (c) (i) If the county legislative body fails to appoint a person to fill the vacancy [~~within~~
122 ~~45 days~~] in accordance with Subsection (6)(b)(iii), the county clerk shall send to the governor a
123 letter that:

124 (A) informs the governor that the county legislative body has failed to appoint a person
125 to fill the vacancy within the statutory time period; and

126 (B) contains the [~~list of nominees~~] name of the person to fill the vacancy submitted by
127 the [~~party central committee~~] party liaison.

128 (ii) The governor shall appoint [~~a person to fill the vacancy from that list of nominees~~]
129 the person named by the party liaison to fill the vacancy within 30 days after receipt of the
130 letter.

131 (d) A person appointed to fill the vacancy under this Subsection (6) shall hold office
132 until their successor is elected and has qualified.

133 (7) Except as otherwise provided by law, the county legislative body may appoint
134 replacements to fill all vacancies that occur in those offices filled by appointment of the county
135 legislative body.

136 (8) Nothing in this section prevents or prohibits independent candidates from filing a
137 declaration of candidacy for the office within the same time limits.

138 (9) (a) Each person elected under Subsection (3), (4), or (5) to fill a vacancy in a
139 county office shall serve for the remainder of the unexpired term of the person who created the
140 vacancy and until a successor is elected and qualified.

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

143 Section 2. Section **20A-8-401** is amended to read:

144 **20A-8-401. Registered political parties -- Bylaws.**

145 (1) (a) Each registered state political party shall file a copy of its constitution and
146 bylaws with the lieutenant governor by January 1, 1995.

147 (b) Each new or unregistered state political party that seeks to become a registered
148 political party under the authority of this chapter shall file a copy of its proposed constitution
149 and bylaws at the time it files its registration information.

150 (c) Each registered state political party shall file revised copies of its constitution or
151 bylaws with the lieutenant governor within 15 days after the constitution or bylaws are adopted

152 or amended.

153 (2) Each state political party, each new political party seeking registration, and each
154 unregistered political party seeking registration shall ensure that its constitution or bylaws
155 contain:

156 (a) provisions establishing party organization, structure, membership, and governance
157 that include:

158 (i) a description of the position, selection process, qualifications, duties, and terms of
159 each party officer and committees defined by constitution and bylaws;

160 (ii) a provision requiring a designated party officer to serve as liaison with:

161 (A) the lieutenant governor on all matters relating to the political party's relationship
162 with the state; and

163 (B) each county legislative body on matters relating to the political party's relationship
164 with a county;

165 (iii) a description of the requirements for participation in party processes;

166 (iv) the dates, times, and quorum of any regularly scheduled party meetings,
167 conventions, or other conclaves; and

168 (v) a mechanism for making the names of delegates, candidates, and elected party
169 officers available to the public shortly after they are selected;

170 (b) a procedure for selecting party officers that allows active participation by party
171 members;

172 (c) a procedure for selecting party candidates at the federal, state, and county levels that
173 allows active participation by party members;

174 (d) (i) a procedure for selecting electors who are pledged to cast their votes in the
175 electoral college for the party's candidates for president and vice president of the United States;
176 and

177 (ii) a procedure for filling vacancies in the office of presidential elector because of
178 death, refusal to act, failure to attend, ineligibility, or any other cause;

179 (e) a procedure for filling vacancies in the office of representative or senator ~~H~~→ **or a**
179a **county office, as described in Section 20A-1-508, ←H** because of
180 death, resignation, or ineligibility;

181 (f) a provision requiring the governor and lieutenant governor to run as a joint ticket;

182 (g) a procedure for replacing party candidates who die, become disabled, or are

183 disqualified before a primary or regular general election;

184 (h) provisions governing the deposit and expenditure of party funds, and governing the
185 accounting for, reporting, and audit of party financial transactions;

186 (i) provisions governing access to party records;

187 (j) a procedure for amending the constitution or bylaws that allows active participation
188 by party members or their representatives;

189 (k) a process for resolving grievances against the political party; and

190 (l) if desired by the political party, a process for consulting with, and obtaining the
191 opinion of, the political party's Utah Senate and Utah House members about:

192 (i) the performance of the two United States Senators from Utah, including
193 specifically:

194 (A) their views and actions regarding the defense of state's rights and federalism; and

195 (B) their performance in representing Utah's interests;

196 (ii) the members' opinion about, or rating of, and support or opposition to the policy
197 positions of any candidates for United States Senate from Utah, including incumbents,
198 including specifically:

199 (A) their views and actions regarding the defense of state's rights and federalism; and

200 (B) their performance in representing Utah's interests; and

201 (iii) the members' collective or individual endorsement or rating of a particular
202 candidate for United States Senate from Utah.

203 Section 3. Section **20A-8-402** is amended to read:

204 **20A-8-402. Political party officers -- Submission of names of officers to the**
205 **lieutenant governor.**

206 (1) Each state political party shall:

207 (a) designate a party officer to act as liaison with:

208 (i) the lieutenant governor's office; and

209 (ii) each county legislative body; and

210 (b) within seven days of any change in the party liaison, submit the name of the new
211 liaison to the lieutenant governor.

212 (2) Each state political party and each county political party shall:

213 (a) submit the names of its officers to the lieutenant governor within seven days after

214 the officers are selected; and
215 (b) within seven days of any change in party officers, submit the names of the new
216 officers to the lieutenant governor.

Legislative Review Note
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Office of Legislative Research and General Counsel

FISCAL NOTE

H.B. 248

SHORT TITLE: **County Office Vacancies**

SPONSOR: **Wimmer, C.**

2011 GENERAL SESSION, STATE OF UTAH

STATE GOVERNMENT (UCA 36-12-13(2)(b))

Enactment of this bill likely will not materially impact the state budget.

LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for local governments.

DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d))

Enactment of this bill likely will not result in direct, measurable expenditures by Utah residents or businesses.