Effective 5/7/2025

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

(1)

(a) As used in this section:

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

(ii) "Vacancy," if due to resignation, occurs:

(A) for a municipal executive, on the effective date of an irrevocable letter of resignation submitted by the municipal executive to the municipal legislative body; or

(B) for a member of a municipal legislative body, on the effective date of an irrevocable letter of resignation submitted by the member to the municipal legislative body.

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

(c) Before acting to fill the vacancy, the municipal legislative body shall:

(i) immediately notify the municipal recorder or clerk;

(ii) give public notice of the vacancy at least 14 calendar days before the day on which the municipal legislative body meets to fill the vacancy;

(iii) identify, in the notice:

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

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

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

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

(d)

(i) The municipal legislative body shall take an initial vote to fill the vacancy from among the names of the candidates interviewed under Subsection (1)(c)(iv).

(ii)

(A) If no candidate receives a majority vote of the municipal legislative body in the initial vote described in Subsection (1)(d)(i), the two candidates that received the most votes in the initial vote, as determined by the tie-breaking procedures described in Subsections (1)(d)(ii)(B) through (D) if necessary, shall be placed before the municipal legislative body for a second vote to fill the vacancy.

(B) If the initial vote results in a tie for second place, the candidates tied for second place shall be reduced to one by a coin toss conducted in accordance with Subsection (1)(d)(ii)(D), and the second vote described in Subsection (1)(d)(ii)(A) shall be between the candidate that received the most votes in the initial vote and the candidate that wins the coin toss described in this Subsection (1)(d)(ii)(B).

(C) If the initial vote results in a tie among three or more candidates for first place, the candidates tied for first place shall be reduced to two by a coin toss conducted in accordance with Subsection (1)(d)(ii)(D), and the second vote described in Subsection (1)(d)(ii)(A) shall be between the two candidates that remain after the coin toss described in this Subsection (1)(d)(ii)(C).

(D) A coin toss required under this Subsection (1)(d) shall be conducted by the municipal clerk or recorder in the presence of the municipal legislative body.

(iii) If, in the second vote described in Subsection (1)(d)(ii)(A), neither candidate receives a majority vote of the municipal legislative body, the vacancy shall be determined by a coin toss between the two candidates in accordance with Subsection (1)(d)(ii)(D).

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

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

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

(ii) direct the municipal legislative body to, within 30 calendar days after the day on which the lieutenant governor provides the notice described in this Subsection (1)(f), appoint an eligible individual to fill the vacancy in accordance with Subsections (1)(c) and (d).

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

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

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

(2)

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

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

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

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

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

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

(3)

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

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

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

(b) A council member serving as acting mayor under Subsection (3)(a)(ii) continues to:

(i) act as a council member; and

(ii) vote at council meetings.

(4)

(a)

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

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

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

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

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

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

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

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

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

(c) vote in the case of a tie.

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

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

(8)

(a) Except as provided in Subsection (8)(b), an individual seeking appointment to fill a vacancy under this section shall, no later than the deadline for the individual to file a campaign finance statement under Section 10-3-208:

(i) complete a conflict of interest disclosure statement in accordance with Section 10-3-301.5; and

(ii) submit the conflict of interest disclosure statement to the municipal legislative body and the municipal clerk or recorder.

(b) An individual described in Subsection (8)(a) is not required to comply with Subsection (8)(a) if the individual:

(i) currently holds an office described in Subsection (1)(b);

(ii) already, that same year, filed a conflict of interest disclosure statement for the office described in Subsection (8)(b)(i), in accordance with Section 10-3-1313; and

(iii) no later than the deadline described in Subsection (8)(a), indicates, in a written notice submitted to the municipal clerk or recorder, that the conflict of interest disclosure statement described in Subsection (8)(b)(ii) is updated and accurate as of the date of the written notice.

(9)

(a) The municipal clerk or recorder shall make each conflict of interest disclosure statement made by an individual described in Subsection (8)(a) available for public inspection by posting an electronic copy of the statement on:

(i) the municipality's website; or

(ii) if the municipality does not have a website, on the website of the county in which the municipality is located.

(b) The municipal clerk or recorder shall:

(i) post the electronic statement described in Subsection (9)(a) no later than two business days after the day on which the municipal recorder or clerk receives the statement; and

(ii) ensure that the electronic statement remains posted on the website described in Subsection (9)(a) for at least 10 calendar days after the day on which the municipal legislative body appoints an individual to fill the vacancy.

Amended by Chapter 90, 2025 General Session

Amended by Chapter 448, 2025 General Session