

ELECTION LAW AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

LONG TITLE**General Description:**

This bill amends provisions relating to election law.

Highlighted Provisions:

This bill:

- ▶ provides an exception to the prohibition on making a campaign contribution to a legislator or the governor during certain time periods if the campaign contribution is an in-kind contribution relating to gathering and submitting signatures to qualify an individual for placement on the ballot as a candidate for nomination by a registered political party;
- ▶ removes a political party's ability to replace a candidate who is disqualified for failure to file a financial disclosure; and
- ▶ establishes a deadline by which an individual who wishes to become a candidate for a local school board shall submit a declaration of candidacy.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

20A-1-501, as last amended by Laws of Utah 2014, Chapter 17

20A-11-206, as last amended by Laws of Utah 2015, Chapter 204

20A-11-305, as last amended by Laws of Utah 2015, Chapter 204

20A-14-203, as enacted by Laws of Utah 1995, Chapter 1

36-11-305, as last amended by Laws of Utah 2011, Chapter 250

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

Section 1. Section **20A-1-501** is amended to read:

33 **20A-1-501. Candidate vacancies -- Procedure for filling.**

34 (1) The state central committee of a political party, for candidates for United States
35 senator, United States representative, governor, lieutenant governor, attorney general, state
36 treasurer, and state auditor, and for legislative candidates whose legislative districts encompass
37 more than one county, and the county central committee of a political party, for all other party
38 candidates seeking an office elected at a regular general election, may certify the name of
39 another candidate to the appropriate election officer if:

40 (a) for a registered political party that will have a candidate on a ballot in a primary
41 election, after the close of the period for filing a declaration of candidacy and continuing
42 through the day before the day on which the lieutenant governor provides the list described in
43 Subsection 20A-9-403(4)(a):

44 (i) only one or two candidates from that party have filed a declaration of candidacy for
45 that office; and

46 (ii) one or both:

47 (A) dies;

48 (B) resigns because of acquiring a physical or mental disability, certified by a
49 physician, that prevents the candidate from continuing the candidacy; or

50 (C) is disqualified by an election officer for improper filing or nominating procedures;

51 (b) for a registered political party that does not have a candidate on the ballot in a
52 primary, but that will have a candidate on the ballot for a general election, after the close of the
53 period for filing a declaration of candidacy and continuing through the day before the day on
54 which the lieutenant governor makes the certification described in Section 20A-5-409, the
55 party's candidate:

56 (i) dies;

57 (ii) resigns because of acquiring a physical or mental disability as certified by a
58 physician;

59 (iii) is disqualified by an election officer for improper filing or nominating procedures;

60 or

61 (iv) resigns to become a candidate for president or vice president of the United States;

62 or

63 (c) for a registered political party with a candidate certified as winning a primary

64 election, after the deadline described in Subsection (1)(a) and continuing through the day
65 before that day on which the lieutenant governor makes the certification described in Section
66 20A-5-409, the party's candidate:

67 (i) dies;

68 (ii) resigns because of acquiring a physical or mental disability as certified by a
69 physician;

70 (iii) is disqualified by an election officer for improper filing or nominating procedures;

71 or

72 (iv) resigns to become a candidate for president or vice president of the United States.

73 (2) If no more than two candidates from a political party have filed a declaration of
74 candidacy for an office elected at a regular general election and one resigns to become the party
75 candidate for another position, the state central committee of that political party, for candidates
76 for governor, lieutenant governor, attorney general, state treasurer, and state auditor, and for
77 legislative candidates whose legislative districts encompass more than one county, and the
78 county central committee of that political party, for all other party candidates, may certify the
79 name of another candidate to the appropriate election officer.

80 (3) Each replacement candidate shall file a declaration of candidacy as required by
81 Title 20A, Chapter 9, Part 2, Candidate Qualifications and Declarations of Candidacy.

82 (4) (a) The name of a candidate who is certified under Subsection (1)(a) after the
83 deadline described in Subsection (1)(a) may not appear on the primary election ballot.

84 (b) The name of a candidate who is certified under Subsection (1)(b) after the deadline
85 described in Subsection (1)(b) may not appear on the general election ballot.

86 (c) The name of a candidate who is certified under Subsection (1)(c) after the deadline
87 described in Subsection (1)(c) may not appear on the general election ballot.

88 (5) A political party may not replace a candidate who is disqualified for failure to
89 timely file a campaign disclosure financial report under Title 20A, Chapter 11, Campaign and
90 Financial Reporting Requirements, or Section 17-16-6.5.

91 Section 2. Section **20A-11-206** is amended to read:

92 **20A-11-206. State office candidate -- Failure to file reports -- Penalties.**

93 (1) (a) A state office candidate who fails to file a financial statement by the deadline is
94 subject to a fine imposed in accordance with Section 20A-11-1005.

95 (b) If a state office candidate fails to file an interim report described in Subsections
96 20A-11-204(1)(b)(ii) through (iv), the lieutenant governor shall, after making a reasonable
97 attempt to discover if the report was timely filed, inform the county clerk and other appropriate
98 election officials that the state office candidate is disqualified.

99 ~~[(c) (i) The vacancy on the ballot resulting from the disqualification may be filled as~~
100 ~~provided in Section 20A-1-501.]~~

101 ~~[(iii)]~~ (c) (i) If a state office candidate is disqualified under Subsection (1)~~[(a)]~~(b), the
102 election official shall:

103 (A) remove the candidate's name from the ballot; or

104 (B) if removing the candidate's name from the ballot is not practicable, inform the
105 voters by any practicable method that the candidate has been disqualified and that votes cast for
106 the candidate will not be counted.

107 ~~[(iii)]~~ (ii) An election official may fulfill the requirement described in Subsection
108 (1)(c)~~[(iii)]~~(i)(B) in relation to an absentee voter, including a military or overseas absentee
109 voter, by including with the absentee ballot a written notice directing the voter to a public
110 website that will inform the voter whether a candidate on the ballot is disqualified.

111 (d) Notwithstanding ~~[Subsections (1)(b) and (1)(c)]~~ Subsection (1)(b), a state office
112 candidate is not disqualified if:

113 (i) the candidate timely files the reports required by this section no later than the due
114 date in accordance with Section 20A-11-103;

115 (ii) the reports are completed, detailing accurately and completely the information
116 required by this part except for inadvertent omissions or insignificant errors or inaccuracies;
117 and

118 (iii) the omissions, errors, or inaccuracies described in Subsection (1)(d)(ii) are
119 corrected in:

120 (A) an amended report; or

121 (B) the next scheduled report.

122 (2) (a) Within 30 days after a deadline for the filing of a summary report, the lieutenant
123 governor shall review each filed summary report to ensure that:

124 (i) each state office candidate that is required to file a summary report has filed one;

125 and

126 (ii) each summary report contains the information required by this part.

127 (b) If it appears that any state office candidate has failed to file the summary report
 128 required by law, if it appears that a filed summary report does not conform to the law, or if the
 129 lieutenant governor has received a written complaint alleging a violation of the law or the
 130 falsity of any summary report, the lieutenant governor shall, within five days of discovery of a
 131 violation or receipt of a written complaint, notify the state office candidate of the violation or
 132 written complaint and direct the state office candidate to file a summary report correcting the
 133 problem.

134 (c) (i) It is unlawful for any state office candidate to fail to file or amend a summary
 135 report within seven days after receiving notice from the lieutenant governor under this section.

136 (ii) Each state office candidate who violates Subsection (2)(c)(i) is guilty of a class B
 137 misdemeanor.

138 (iii) The lieutenant governor shall report all violations of Subsection (2)(c)(i) to the
 139 attorney general.

140 (iv) In addition to the criminal penalty described in Subsection (2)(c)(ii), the lieutenant
 141 governor shall impose a civil fine of \$100 against a state office candidate who violates
 142 Subsection (2)(c)(i).

143 Section 3. Section **20A-11-305** is amended to read:

144 **20A-11-305. Legislative office candidate -- Failure to file report -- Penalties.**

145 (1) (a) A legislative office candidate who fails to file a financial statement by the
 146 deadline is subject to a fine imposed in accordance with Section 20A-11-1005.

147 (b) If a legislative office candidate fails to file an interim report described in
 148 Subsections 20A-11-303(1)(b)(ii) through (iv), the lieutenant governor shall, after making a
 149 reasonable attempt to discover if the report was timely filed, inform the county clerk and other
 150 appropriate election officials that the legislative office candidate is disqualified.

151 ~~[(c) (i) The vacancy on the ballot resulting from the disqualification may be filled as
 152 provided in Section 20A-1-501.]~~

153 ~~[(ii)]~~ (c) (i) If a legislative office candidate is disqualified under Subsection (1)~~[(a)]~~(b),
 154 the election officer shall:

155 (A) remove the candidate's name from the ballot; or

156 (B) if removing the candidate's name from the ballot is not practicable, inform the

157 voters by any practicable method that the candidate has been disqualified and that votes cast for
158 the candidate will not be counted.

159 (d) Notwithstanding [~~Subsections (1)(b) and (1)(c)~~] Subsection (1)(b), a legislative
160 office candidate is not disqualified if:

161 (i) the candidate timely files the reports required by this section no later than the due
162 date in accordance with Section 20A-11-103;

163 (ii) the reports are completed, detailing accurately and completely the information
164 required by this part except for inadvertent omissions or insignificant errors or inaccuracies;
165 and

166 (iii) the omissions, errors, or inaccuracies described in Subsection (1)(d)(ii) are
167 corrected in:

168 (A) an amended report; or

169 (B) the next scheduled report.

170 (2) (a) Within 30 days after a deadline for the filing of a summary report, the lieutenant
171 governor shall review each filed summary report to ensure that:

172 (i) each legislative office candidate that is required to file a summary report has filed
173 one; and

174 (ii) each summary report contains the information required by this part.

175 (b) If it appears that any legislative office candidate has failed to file the summary
176 report required by law, if it appears that a filed summary report does not conform to the law, or
177 if the lieutenant governor has received a written complaint alleging a violation of the law or the
178 falsity of any summary report, the lieutenant governor shall, within five days of discovery of a
179 violation or receipt of a written complaint, notify the legislative office candidate of the
180 violation or written complaint and direct the legislative office candidate to file a summary
181 report correcting the problem.

182 (c) (i) It is unlawful for any legislative office candidate to fail to file or amend a
183 summary report within seven days after receiving notice from the lieutenant governor under
184 this section.

185 (ii) Each legislative office candidate who violates Subsection (2)(c)(i) is guilty of a
186 class B misdemeanor.

187 (iii) The lieutenant governor shall report all violations of Subsection (2)(c)(i) to the

188 attorney general.

189 (iv) In addition to the criminal penalty described in Subsection (2)(c)(ii), the lieutenant
190 governor shall impose a civil fine of \$100 against a legislative office candidate who violates
191 Subsection (2)(c)(i).

192 Section 4. Section **20A-14-203** is amended to read:

193 **20A-14-203. Becoming a member of a local board of education -- Declaration of**
194 **candidacy -- Election.**

195 (1) An individual may become a candidate for a local school board:

196 (a) (i) in the 2016 general election, by filing a declaration of candidacy with the county
197 clerk ~~and~~, in accordance with Section 20A-9-202, before 5 p.m. on March 17, 2016; or

198 (ii) in a general election held after 2016, by filing a declaration of candidacy with the
199 county clerk on or after the second Friday in March, and before 5 p.m. on the third Thursday in
200 March, before the next regular general election; and

201 (b) by paying the fee as required by Section 20A-9-202.

202 (2) (a) The term of office for an individual elected to a local board of education is four
203 years, beginning on the first Monday in January after the election.

204 (b) A member of a local board of education shall serve until a successor is elected or
205 appointed and qualified.

206 (c) A member of a local board of education is "qualified" when the member takes or
207 signs the constitutional oath of office.

208 Section 5. Section **36-11-305** is amended to read:

209 **36-11-305. Campaign contribution during session prohibited.**

210 (1) ~~[It]~~ Except as provided in Subsection (3), it is unlawful for a person, lobbyist,
211 principal, or political committee to make a campaign contribution or contract, promise, or
212 agree to make a campaign contribution to a legislator or a legislator's personal campaign
213 committee, or a political action committee controlled by a legislator during the time the
214 Legislature is convened in annual general session, veto override session, or special session.

215 (2) ~~[It]~~ Except as provided in Subsection (3), it is unlawful for a person, lobbyist,
216 principal, or political committee to make a campaign contribution, or contract, promise, or
217 agree to make a campaign contribution, to the governor, the governor's personal campaign
218 committee, or a political action committee controlled by the governor during the time the

219 Legislature is convened in annual general session, veto override session, special session, or
220 during the time period established by the Utah Constitution, Article VII, Section 8, for the
221 governor to approve or veto bills passed by the Legislature in the annual general session.

222 (3) This section does not prohibit making an in-kind contribution, or a contract,
223 promise, or agreement to make an in-kind contribution, at any time if the in-kind contribution
224 solely relates to gathering and submitting signatures to qualify an individual for placement on
225 the ballot as a candidate for nomination by a registered political party.

226 [~~3~~] (4) Any person who violates this section is guilty of a class A misdemeanor.

227 Section 6. **Effective date.**

228 If approved by two-thirds of all the members elected to each house, this bill takes effect
229 upon approval by the governor, or the day following the constitutional time limit of Utah
230 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,
231 the date of veto override.

Legislative Review Note
Office of Legislative Research and General Counsel