

**LIEUTENANT GOVERNOR CANDIDATE AMENDMENTS**

2013 GENERAL SESSION

STATE OF UTAH

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**LONG TITLE****General Description:**

This bill amends provisions in Title 20A, Election Code, related to candidates for the office of lieutenant governor.

**Highlighted Provisions:**

This bill:

- ▶ allows a candidate for the office of lieutenant governor to file for more than one office;
- ▶ amends the deadline for a person to file a declaration of candidacy for the office of lieutenant governor; and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**20A-9-201**, as last amended by Laws of Utah 2011, Third Special Session, Chapter 2

**20A-9-202**, as last amended by Laws of Utah 2011, Chapter 327

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

Section 1. Section **20A-9-201** is amended to read:

**20A-9-201. Declarations of candidacy -- Candidacy for more than one office or of more than one political party prohibited with exceptions -- General filing and form requirements -- Affidavit of impecuniosity.**

(1) Before filing a declaration of candidacy for election to any office, a person shall:

- (a) be a United States citizen; and
- (b) meet the legal requirements of that office.

33 (2) (a) Except as provided in Subsection (2)(b), a person may not:

34 (i) file a declaration of candidacy for, or be a candidate for, more than one office in  
35 Utah during any election year; or

36 (ii) appear on the ballot as the candidate of more than one political party.

37 (b) (i) A person may file a declaration of candidacy for, or be a candidate for, President  
38 or Vice President of the United States and another office, if the person resigns the person's  
39 candidacy for the other office after the person is officially nominated for President or Vice  
40 President of the United States.

41 (ii) A person may file a declaration of candidacy for, or be a candidate for, more than  
42 one justice court judge office.

43 (iii) A person may file a declaration of candidacy for lieutenant governor even if the  
44 person filed a declaration of candidacy for another office in the same election year if the person  
45 withdraws as a candidate for the other office in accordance with Subsection 20A-9-202(6)  
46 before filing the declaration of candidacy for lieutenant governor.

47 (3) (a) (i) Except for presidential candidates, before the filing officer may accept any  
48 declaration of candidacy, the filing officer shall:

49 (A) read to the prospective candidate the constitutional and statutory qualification  
50 requirements for the office that the candidate is seeking; and

51 (B) require the candidate to state whether or not the candidate meets those  
52 requirements.

53 (ii) Before accepting a declaration of candidacy for the office of county attorney, the  
54 county clerk shall ensure that the person filing that declaration of candidacy is:

55 (A) a United States citizen;

56 (B) an attorney licensed to practice law in Utah who is an active member in good  
57 standing of the Utah State Bar;

58 (C) a registered voter in the county in which the person is seeking office; and

59 (D) a current resident of the county in which the person is seeking office and either has  
60 been a resident of that county for at least one year or was appointed and is currently serving as  
61 county attorney and became a resident of the county within 30 days after appointment to the  
62 office.

63 (iii) Before accepting a declaration of candidacy for the office of district attorney, the

64 county clerk shall ensure that, as of the date of the election, the person filing that declaration of  
65 candidacy is:

66 (A) a United States citizen;

67 (B) an attorney licensed to practice law in Utah who is an active member in good  
68 standing of the Utah State Bar;

69 (C) a registered voter in the prosecution district in which the person is seeking office;  
70 and

71 (D) a current resident of the prosecution district in which the person is seeking office  
72 and either will have been a resident of that prosecution district for at least one year as of the  
73 date of the election or was appointed and is currently serving as district attorney and became a  
74 resident of the prosecution district within 30 days after receiving appointment to the office.

75 (iv) Before accepting a declaration of candidacy for the office of county sheriff, the  
76 county clerk shall ensure that the person filing the declaration of candidacy:

77 (A) as of the date of filing:

78 (I) is a United States citizen;

79 (II) is a registered voter in the county in which the person seeks office;

80 (III) (Aa) has successfully met the standards and training requirements established for  
81 law enforcement officers under Title 53, Chapter 6, Part 2, Peace Officer Training and  
82 Certification Act; or

83 (Bb) has met the waiver requirements in Section 53-6-206; and

84 (IV) is qualified to be certified as a law enforcement officer, as defined in Section  
85 53-13-103; and

86 (B) as of the date of the election, shall have been a resident of the county in which the  
87 person seeks office for at least one year.

88 (v) Before accepting a declaration of candidacy for the office of governor, lieutenant  
89 governor, state auditor, state treasurer, attorney general, state legislator, or State Board of  
90 Education member, the filing officer shall ensure:

91 (A) that the person filing the declaration of candidacy also files the financial disclosure  
92 required by Section 20A-11-1603; and

93 (B) if the filing officer is not the lieutenant governor, that the financial disclosure is  
94 provided to the lieutenant governor according to the procedures and requirements of Section

95 20A-11-1603.

96 (b) If the prospective candidate states that the qualification requirements for the office  
97 are not met, the filing officer may not accept the prospective candidate's declaration of  
98 candidacy.

99 (c) If the candidate meets the requirements of Subsection (3)(a) and states that the  
100 requirements of candidacy are met, the filing officer shall:

101 (i) inform the candidate that:

102 (A) the candidate's name will appear on the ballot as it is written on the declaration of  
103 candidacy;

104 (B) the candidate may be required to comply with state or local campaign finance  
105 disclosure laws; and

106 (C) the candidate is required to file a financial statement before the candidate's political  
107 convention under:

108 (I) Section 20A-11-204 for a candidate for constitutional office;

109 (II) Section 20A-11-303 for a candidate for the Legislature; or

110 (III) local campaign finance disclosure laws, if applicable;

111 (ii) except for a presidential candidate, provide the candidate with a copy of the current  
112 campaign financial disclosure laws for the office the candidate is seeking and inform the  
113 candidate that failure to comply will result in disqualification as a candidate and removal of the  
114 candidate's name from the ballot;

115 (iii) provide the candidate with a copy of Section 20A-7-801 regarding the Statewide  
116 Electronic Voter Information Website Program and inform the candidate of the submission  
117 deadline under Subsection 20A-7-801(4)(a);

118 (iv) provide the candidate with a copy of the pledge of fair campaign practices  
119 described under Section 20A-9-206 and inform the candidate that:

120 (A) signing the pledge is voluntary; and

121 (B) signed pledges shall be filed with the filing officer;

122 (v) accept the candidate's declaration of candidacy; and

123 (vi) if the candidate has filed for a partisan office, provide a certified copy of the  
124 declaration of candidacy to the chair of the county or state political party of which the  
125 candidate is a member.

126 (d) If the candidate elects to sign the pledge of fair campaign practices, the filing  
127 officer shall:

128 (i) accept the candidate's pledge; and

129 (ii) if the candidate has filed for a partisan office, provide a certified copy of the  
130 candidate's pledge to the chair of the county or state political party of which the candidate is a  
131 member.

132 (4) Except for presidential candidates, the form of the declaration of candidacy shall be  
133 substantially as follows:

134 "State of Utah, County of \_\_\_\_\_

135 I, \_\_\_\_\_, declare my intention of becoming a candidate for the office  
136 of \_\_\_\_\_ as a candidate for the \_\_\_\_\_ party. I do solemnly swear that: I will meet the  
137 qualifications to hold the office, both legally and constitutionally, if selected; I reside at  
138 \_\_\_\_\_ in the City or Town of \_\_\_\_\_, Utah, Zip Code \_\_\_\_\_ Phone No. \_\_\_\_\_; I  
139 will not knowingly violate any law governing campaigns and elections; I will file all  
140 campaign financial disclosure reports as required by law; and I understand that failure  
141 to do so will result in my disqualification as a candidate for this office and removal of  
142 my name from the ballot. The mailing address that I designate for receiving official  
143 election notices is \_\_\_\_\_.

144 \_\_\_\_\_

145 Subscribed and sworn before me this \_\_\_\_\_(month\day\year).

146 \_\_\_\_\_ Notary Public (or other officer qualified to administer oath.)"

147 (5) (a) Except for presidential candidates, the fee for filing a declaration of candidacy  
148 is:

149 (i) \$25 for candidates for the local school district board; and

150 (ii) 1/8 of 1% of the total salary for the full term of office legally paid to the person  
151 holding the office, but not less than \$5, for all other federal, state, and county offices.

152 (b) Except for presidential candidates, the filing officer shall refund the filing fee to  
153 any candidate:

154 (i) who is disqualified; or

155 (ii) who the filing officer determines has filed improperly.

156 (c) (i) The county clerk shall immediately pay to the county treasurer all fees received

157 from candidates.

158 (ii) The lieutenant governor shall:

159 (A) apportion to and pay to the county treasurers of the various counties all fees  
160 received for filing of nomination certificates or acceptances; and

161 (B) ensure that each county receives that proportion of the total amount paid to the  
162 lieutenant governor from the congressional district that the total vote of that county for all  
163 candidates for representative in Congress bears to the total vote of all counties within the  
164 congressional district for all candidates for representative in Congress.

165 (d) (i) A person who is unable to pay the filing fee may file a declaration of candidacy  
166 without payment of the filing fee upon a prima facie showing of impecuniosity as evidenced by  
167 an affidavit of impecuniosity filed with the filing officer and, if requested by the filing officer,  
168 a financial statement filed at the time the affidavit is submitted.

169 (ii) A person who is able to pay the filing fee may not claim impecuniosity.

170 (iii) (A) False statements made on an affidavit of impecuniosity or a financial  
171 statement filed under this section shall be subject to the criminal penalties provided under  
172 Sections 76-8-503 and 76-8-504 and any other applicable criminal provision.

173 (B) Conviction of a criminal offense under Subsection (5)(d)(iii)(A) shall be  
174 considered an offense under this title for the purposes of assessing the penalties provided in  
175 Subsection 20A-1-609(2).

176 (iv) The filing officer shall ensure that the affidavit of impecuniosity is printed in  
177 substantially the following form:

178 "Affidavit of Impecuniosity

179 Individual Name

180 \_\_\_\_\_ Address \_\_\_\_\_

181 Phone Number \_\_\_\_\_

182 I, \_\_\_\_\_ (name), do solemnly [swear] [affirm], under penalty of law  
183 for false statements, that, owing to my poverty, I am unable to pay the filing fee required by  
184 law.

185 Date \_\_\_\_\_ Signature \_\_\_\_\_

186 Affiant

187 Subscribed and sworn to before me on \_\_\_\_\_ (month\day\year)

188 \_\_\_\_\_  
 189 (signature)  
 190 Name and Title of Officer Authorized to Administer Oath \_\_\_\_\_"

191 (v) The filing officer shall provide to a person who requests an affidavit of  
 192 impecuniosity a statement printed in substantially the following form, which may be included  
 193 on the affidavit of impecuniosity:

194 "Filing a false statement is a criminal offense. In accordance with Section 20A-1-609, a  
 195 candidate who is found guilty of filing a false statement, in addition to being subject to criminal  
 196 penalties, will be removed from the ballot."

197 (vi) The filing officer may request that a person who makes a claim of impecuniosity  
 198 under this Subsection (5)(d) file a financial statement on a form prepared by the election  
 199 official.

200 (6) If there is no legislative appropriation for the Western States Presidential Primary  
 201 election, as provided in Part 8, Western States Presidential Primary, a candidate for President  
 202 of the United States who is affiliated with a registered political party and chooses to participate  
 203 in the regular primary election shall:

204 (a) file a declaration of candidacy, in person or via a designated agent, with the  
 205 lieutenant governor:

206 (i) on a form developed and provided by the lieutenant governor; and  
 207 (ii) on or after the second Friday in March and before 5 p.m. on the third Thursday in  
 208 March before the next regular primary election;

209 (b) identify the registered political party whose nomination the candidate is seeking;  
 210 (c) provide a letter from the registered political party certifying that the candidate may  
 211 participate as a candidate for that party in that party's presidential primary election; and  
 212 (d) pay the filing fee of \$500.

213 (7) Any person who fails to file a declaration of candidacy or certificate of nomination  
 214 within the time provided in this chapter is ineligible for nomination to office.

215 (8) A declaration of candidacy filed under this section may not be amended or  
 216 modified after the final date established for filing a declaration of candidacy.

217 Section 2. Section **20A-9-202** is amended to read:

218 **20A-9-202. Declarations of candidacy for regular general elections --**

219 **Requirements for candidates.**

220 (1) (a) Each person seeking to become a candidate for elective office for any county  
221 office that is to be filled at the next regular general election shall:

222 (i) file a declaration of candidacy in person with the county clerk on or after the second  
223 Friday in March and before 5 p.m. on the third Thursday in March before the next regular  
224 general election; and

225 (ii) pay the filing fee.

226 (b) Each person intending to become a candidate for any legislative office or  
227 multicounty office that is to be filled at the next regular general election shall:

228 (i) file a declaration of candidacy in person with either the lieutenant governor or the  
229 county clerk in the candidate's county of residence on or after the second Friday in March and  
230 before 5 p.m. on the third Thursday in March before the next regular general election; and

231 (ii) pay the filing fee.

232 (c) (i) Each county clerk who receives a declaration of candidacy from a candidate for  
233 multicounty office shall transmit the filing fee and a copy of the candidate's declaration of  
234 candidacy to the lieutenant governor within one working day after it is filed.

235 (ii) Each day during the filing period, each county clerk shall notify the lieutenant  
236 governor electronically or by telephone of legislative candidates who have filed in their office.

237 (d) Each person seeking to become a candidate for elective office for any federal office  
238 or constitutional office, other than the office of lieutenant governor, that is to be filled at the  
239 next regular general election shall:

240 (i) file a declaration of candidacy in person with the lieutenant governor on or after the  
241 second Friday in March and before 5 p.m. on the third Thursday in March before the next  
242 regular general election; and

243 (ii) pay the filing fee.

244 (e) Each person seeking the office of lieutenant governor, the office of district attorney,  
245 or the office of President or Vice President of the United States shall comply with the specific  
246 declaration of candidacy requirements established by this section.

247 (2) (a) Each person intending to become a candidate for the office of district attorney  
248 within a multicounty prosecution district that is to be filled at the next regular general election  
249 shall:

250 (i) file a declaration of candidacy with the clerk designated in the interlocal agreement  
251 creating the prosecution district on or after the second Friday in March and before 5 p.m. on the  
252 third Thursday in March before the next regular general election; and

253 (ii) pay the filing fee.

254 (b) The designated clerk shall provide to the county clerk of each county in the  
255 prosecution district a certified copy of each declaration of candidacy filed for the office of  
256 district attorney.

257 (3) (a) [~~Within five working days of nomination, each lieutenant governor candidate~~]

258 Each person seeking to become a candidate for office of lieutenant governor shall:

259 (i) file a declaration of candidacy with the lieutenant governor on or after the second  
260 Friday in March and before the Friday immediately before the convention at which the  
261 lieutenant governor candidate is nominated; and

262 (ii) pay the filing fee.

263 (b) (i) Any candidate for lieutenant governor who fails to file [~~within five working~~  
264 ~~days~~] as provided in Subsection (3)(a) is disqualified.

265 (ii) If a lieutenant governor is disqualified, another candidate shall be nominated to  
266 replace the disqualified candidate as provided in Section 20A-1-501.

267 (4) Each registered political party shall:

268 (a) certify the names of its candidates for President and Vice President of the United  
269 States to the lieutenant governor no later than August 31; or

270 (b) provide written authorization for the lieutenant governor to accept the certification  
271 of candidates for President and Vice President of the United States from the national office of  
272 the registered political party.

273 (5) (a) A declaration of candidacy filed under this section is valid unless a written  
274 objection is filed with the clerk or lieutenant governor within five days after the last day for  
275 filing.

276 (b) If an objection is made, the clerk or lieutenant governor shall:

277 (i) mail or personally deliver notice of the objection to the affected candidate  
278 immediately; and

279 (ii) decide any objection within 48 hours after it is filed.

280 (c) If the clerk or lieutenant governor sustains the objection, the candidate may cure the

281 problem by amending the declaration or petition within three days after the objection is  
282 sustained or by filing a new declaration within three days after the objection is sustained.

283 (d) (i) The clerk's or lieutenant governor's decision upon objections to form is final.

284 (ii) The clerk's or lieutenant governor's decision upon substantive matters is reviewable  
285 by a district court if prompt application is made to the court.

286 (iii) The decision of the district court is final unless the Supreme Court, in the exercise  
287 of its discretion, agrees to review the lower court decision.

288 (6) Any person who filed a declaration of candidacy may withdraw as a candidate by  
289 filing a written affidavit with the clerk.