

1 **DECLARATION OF CANDIDACY AMENDMENTS**

2 2009 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Douglas C. Aagard**

5 Senate Sponsor: Peter C. Knudson

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies the Election Code by amending the dates for filing a declaration of
10 candidacy for general elections.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ amends dates for filling midterm vacancies for county or district attorney;
- 14 ▶ changes filing a declaration of candidacy and a petition of nomination dates for
15 officers elected during a general election from between March 7 and March 17 to
16 between the second Friday and the third Friday in March; and
- 17 ▶ makes technical changes.

18 **Monies Appropriated in this Bill:**

19 None

20 **Other Special Clauses:**

21 None

22 **Utah Code Sections Affected:**

23 AMENDS:

24 **20A-1-509.1**, as enacted by Laws of Utah 1997, Chapter 139

25 **20A-9-202**, as last amended by Laws of Utah 2008, Chapter 225

26 **20A-9-503**, as last amended by Laws of Utah 2007, Chapter 329

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

29 Section 1. Section **20A-1-509.1** is amended to read:

30 **20A-1-509.1. Procedure for filling midterm vacancy in county or district with 15**
31 **or more attorneys.**

32 (1) When a vacancy occurs in the office of county or district attorney in a county or
33 district having 15 or more attorneys who are licensed active members in good standing with
34 the Utah State Bar and registered voters, the vacancy shall be filled as provided in this section.

35 (2) (a) The requirements of this Subsection (2) apply when the office of county
36 attorney or district attorney becomes vacant and:

- 37 (i) the vacant office has an unexpired term of two years or more; and
- 38 (ii) the vacancy occurs before the third Friday in March [~~17~~] of the even-numbered
39 year.

40 (b) When the conditions established in Subsection (2)(a) are met, the county clerk
41 shall notify the public and each registered political party that the vacancy exists.

42 (c) All persons intending to become candidates for the vacant office shall:

- 43 (i) file a declaration of candidacy according to the procedures and requirements of
44 Title 20A, Chapter 9, Part 2, Candidate Qualifications and Declarations of Candidacy;
- 45 (ii) if nominated as a party candidate or qualified as an independent or write-in
46 candidate under Title 20A, Chapter 9, Candidate Qualifications and Nominating Procedures,
47 run in the regular general election; and
- 48 (iii) if elected, complete the unexpired term of the person who created the vacancy.

49 (d) If the vacancy occurs after the second Friday in March [~~9~~] and before the third
50 Friday in March [~~17~~], the time for filing a declaration of candidacy under Section 20A-9-202
51 shall be extended until [~~ten~~] seven days after the county clerk gives notice under Subsection
52 (2)(b), but no later than the fourth Friday in March [~~27~~].

53 (3) (a) The requirements of this Subsection (3) apply when the office of county
54 attorney or district attorney becomes vacant and:

- 55 (i) the vacant office has an unexpired term of two years or more; and
- 56 (ii) the vacancy occurs after the third Friday in March [~~16~~] of the even-numbered year
57 but more than 50 days before the regular primary election.

58 (b) When the conditions established in Subsection (3)(a) are met, the county clerk
59 shall:

60 (i) notify the public and each registered political party that the vacancy exists; and

61 (ii) identify the date and time by which a person interested in becoming a candidate
62 must file a declaration of candidacy.

63 (c) All persons intending to become candidates for the vacant office shall:

64 (i) within five days after the date that the notice is made, ending at 5 p.m. on the fifth
65 day, file a declaration of candidacy for the vacant office as required by Title 20A, Chapter 9,
66 Part 2, Candidate Qualifications and Nominating Procedures; and

67 (ii) if elected, complete the unexpired term of the person who created the vacancy.

68 (d) The county central committee of each party shall:

69 (i) select a candidate or candidates from among those qualified candidates who have
70 filed declarations of candidacy; and

71 (ii) certify the name of the candidate or candidates to the county clerk at least 35 days
72 before the regular primary election.

73 (4) (a) The requirements of this Subsection (4) apply when the office of county
74 attorney or district attorney becomes vacant and:

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

76 (ii) 50 days or less remain before the regular primary election but more than 50 days
77 remain before the regular general election.

78 (b) When the conditions established in Subsection (4)(a) are met, the county central
79 committees of each registered political party that wish to submit a candidate for the office
80 shall summarily certify the name of one candidate to the county clerk for placement on the
81 regular general election ballot.

82 (c) The candidate elected shall complete the unexpired term of the person who created
83 the vacancy.

84 (5) (a) The requirements of this Subsection (5) apply when the office of county
85 attorney or district attorney becomes vacant and:

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

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

89 (b) When the conditions established in Subsection (5)(a) are met, the county
90 legislative body shall give notice of the vacancy to the county central committee of the same
91 political party of the prior officeholder and invite that committee to submit the names of three
92 nominees to fill the vacancy.

93 (c) That county central committee shall, within 30 days of receiving notice from the
94 county legislative body, submit to the county legislative body the names of three nominees to
95 fill the vacancy.

96 (d) The county legislative body shall, within 45 days after the vacancy occurs, appoint
97 one of those nominees to serve out the unexpired term.

98 (e) If the county legislative body fails to appoint a person to fill the vacancy within 45
99 days, the county clerk shall send to the governor a letter that:

100 (i) informs the governor that the county legislative body has failed to appoint a person
101 to fill the vacancy within the statutory time period; and

102 (ii) contains the list of nominees submitted by the party central committee.

103 (f) The governor shall appoint a person to fill the vacancy from that list of nominees
104 within 30 days after receipt of the letter.

105 (g) A person appointed to fill the vacancy under Subsection (5) shall complete the
106 unexpired term of the person who created the vacancy.

107 (6) Nothing in this section prevents or prohibits independent candidates from filing a
108 declaration of candidacy for the office within the required time limits.

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

110 **20A-9-202. Declarations of candidacy for regular general elections --**

111 **Requirements for candidates.**

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

114 (i) file a declaration of candidacy in person with the county clerk on or after the
115 second Friday in March [7] and before 5 p.m. on the third Friday in March [17] before the
116 next regular general election; and

117 (ii) pay the filing fee.

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

120 (i) file a declaration of candidacy in person with either the lieutenant governor or the
121 county clerk in the candidate's county of residence on or after the second Friday in March [7]
122 and before 5 p.m. on the third Friday in March [17] before the next regular general election;
123 and

124 (ii) pay the filing fee.

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

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

130 (d) Each person seeking to become a candidate for elective office for any federal office
131 or constitutional office that is to be filled at the next regular general election shall:

132 (i) file a declaration of candidacy in person with the lieutenant governor on or after the
133 second Friday in March [7] and before 5 p.m. on the third Friday in March [17] before the
134 next regular general election; and

135 (ii) pay the filing fee.

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

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

142 (i) file a declaration of candidacy with the clerk designated in the interlocal agreement
143 creating the prosecution district on or after the second Friday in March [7] and before 5 p.m.
144 on the third Friday in March [17] before the next regular general election; and

145 (ii) pay the filing fee.

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

149 (3) (a) Within five working days of nomination, each lieutenant governor candidate
150 shall:

151 (i) file a declaration of candidacy with the lieutenant governor; and

152 (ii) pay the filing fee.

153 (b) (i) Any candidate for lieutenant governor who fails to file within five working days
154 is disqualified.

155 (ii) If a lieutenant governor is disqualified, another candidate shall be nominated to
156 replace the disqualified candidate.

157 (4) Each registered political party shall:

158 (a) certify the names of its candidates for President and Vice President of the United
159 States to the lieutenant governor no later than September 8; or

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

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

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

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

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

170 (c) If the clerk or lieutenant governor sustains the objection, the candidate may cure
171 the problem by amending the declaration or petition within three days after the objection is
172 sustained or by filing a new declaration within three days after the objection is sustained.

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

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

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

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

180 Section 3. Section **20A-9-503** is amended to read:

181 **20A-9-503. Certificate of nomination -- Filing -- Fees.**

182 (1) After the certificate of nomination has been certified, executed, and acknowledged
183 by the county clerk, the candidate shall:

184 (a) between [~~March 7 and March 17~~] the second Friday in March and the third Friday
185 in March of the year in which the regular general election will be held, file the petition in
186 person with:

187 (i) the lieutenant governor, if the office the candidate seeks is a constitutional office or
188 a federal office; or

189 (ii) the county clerk, if the office the candidate seeks is a county office; and

190 (iii) pay the filing fee; or

191 (b) not later than the sixth Tuesday before the primary election date, file the petition in
192 person with:

193 (i) the municipal clerk, if the candidate seeks an office in a city or town;

194 (ii) the local district clerk, if the candidate seeks an office in a local district; and

195 (iii) pay the filing fee.

196 (2) (a) At the time of filing, and before accepting the petition, the filing officer shall
197 read the constitutional and statutory requirements for candidacy to the candidate.

198 (b) If the candidate states that he does not meet the requirements, the filing officer
199 may not accept the petition.

200 (3) Persons filing a certificate of nomination for President of the United States under
201 this section shall pay a filing fee of \$500.