

1 **FILLING CANDIDATE VACANCIES**

2 2013 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Derek E. Brown**

5 Senate Sponsor: _____

6

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies the Election Code regarding the grounds a state central committee of
10 a political party may use to certify a replacement candidate.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ removes the improper filing of campaign reports as grounds for:
- 14 • the state central committee of a political party to certify a replacement candidate
 - 15 for United States senator, United States representative, governor, lieutenant
 - 16 governor, attorney general, state treasurer, state auditor, or a legislative
 - 17 candidate whose legislative district encompasses more than one county; and
 - 18 • the county central committee of a political party to certify a replacement
 - 19 candidate for all other party candidates seeking an office elected at a regular
 - 20 general election;
 - 21 ▶ increases the fine of a candidate, who is required to be certified by a political party,
 - 22 for failure to file a financial statement from \$100 to \$500; and
 - 23 ▶ makes technical changes.

24 **Money Appropriated in this Bill:**

25 None

26 **Other Special Clauses:**

27 None



28 **Utah Code Sections Affected:**

29 AMENDS:

30 **20A-1-501**, as last amended by Laws of Utah 2012, Chapter 73

31 **20A-11-206**, as last amended by Laws of Utah 2011, Chapter 396

32 **20A-11-305**, as last amended by Laws of Utah 2011, Chapter 396

33 **20A-11-1005**, as enacted by Laws of Utah 2010, Chapter 389

34 **20A-11-1305**, as last amended by Laws of Utah 2011, Chapter 396



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

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

38 **20A-1-501. Candidate vacancies -- Procedure for filling.**

39 [~~(1) The state central committee of a political party, for candidates for]~~

40 (1) As used in this section, "central committee" means:

41 (a) the state central committee of a political party, when the term is used in relation to a
42 candidate for:

43 (i) United States senator[;];

44 (ii) United States representative[;];

45 (iii) governor[;];

46 (iv) lieutenant governor[;];

47 (v) attorney general[;];

48 (vi) state treasurer[~~;~~and];

49 (vii) state auditor[~~;~~and for]; or

50 (viii) a legislative [~~candidate~~] candidate whose legislative [~~districts encompass]~~
51 district encompasses more than one county[~~;~~and]; or

52 (b) the county central committee of a political party, [~~for all other party candidates]~~
53 when the term is used in relation to a candidate, other than a candidate described in Subsection
54 (1)(a), who is seeking an office elected at a regular general election[;].

55 (2) A central committee may certify the name of another candidate for the party of that
56 central committee to the appropriate election officer if:

57 (a) after the close of the period for filing declarations of candidacy and continuing
58 through the date 15 days before the date of the primary election:

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

61 (ii) one or both candidates:

62 (A) [~~dies~~] die;

63 (B) [~~resigns~~] resign because of acquiring a physical or mental disability, certified by a
64 physician, that prevents the candidate from continuing the candidacy; [~~or~~]

65 (C) for United States senator or United States representative, is disqualified by an
66 election officer for improper filing or nominating procedures; or

67 (D) for an office other than United States senator or United States representative, is
68 disqualified for improper nominating procedures; or

69 (b) after the close of the primary election and continuing through the date of the voter
70 registration deadline for the general election as established in Section 20A-2-102.5, the party's
71 candidate:

72 (i) dies;

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

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

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

78 [~~(2)~~] (3) If no more than two candidates from a political party have filed a declaration
79 of candidacy for an office elected at a regular general election and one resigns to become the
80 party candidate for another position, the [state] central committee of that political party[~~, for~~
81 ~~candidates for governor, lieutenant governor, attorney general, state treasurer, and state auditor,~~
82 ~~and for legislative candidates whose legislative districts encompass more than one county, and~~
83 ~~the county central committee of that political party, for all other party candidates,]~~ may certify
84 the name of another candidate to the appropriate election officer.

85 [~~(3)~~] (4) Each replacement candidate shall file a declaration of candidacy as required
86 by Title 20A, Chapter 9, Part 2, Candidate Qualifications and Declarations of Candidacy.

87 [~~(4)~~] (5) A replacement candidate may not be certified for an election during the period
88 beginning on the day after the date of the voter registration deadline and continuing through the
89 date of the election.

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

91 **20A-11-206. State office candidate -- Failure to file reports -- Penalties.**

92 (1) (a) If a state office candidate fails to file an interim report due before the regular
93 primary election, on August 31, or before the regular general election, the lieutenant governor
94 shall, after making a reasonable attempt to discover if the report was timely filed:

95 (i) inform the county clerk and other appropriate election officials who:

96 (A) (I) shall, if practicable, remove the name of the candidate from the ballots before
97 the ballots are delivered to voters; or

98 (II) shall, if removing the candidate's name from the ballot is not practicable, inform
99 the voters by any practicable method that the candidate has been disqualified and that votes
100 cast for the candidate will not be counted; and

101 (B) may not count any votes for that candidate; and

102 (ii) impose a fine against the filing entity in accordance with Section 20A-11-1005.

103 (b) Any state office candidate who fails to file timely a financial statement required by
104 Subsection 20A-11-204(1)(b), (c), or (d) is disqualified [~~and the vacancy on the ballot may be~~
105 ~~filled as provided in Section 20A-1-501~~].

106 (c) Notwithstanding Subsections (1)(a) and (1)(b), a state office candidate is not
107 disqualified and the lieutenant governor may not impose a fine if:

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

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

113 (iii) the omissions, errors, or inaccuracies described in Subsection (1)(c)(ii) are
114 corrected in:

115 (A) an amended report; or

116 (B) the next scheduled report.

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

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

120 and

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

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

129 (c) (i) It is unlawful for any state office candidate to fail to file or amend a summary
130 report within 14 days after receiving notice from the lieutenant governor under this section.

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

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

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

136 **20A-11-305. Legislative office candidate -- Failure to file report -- Penalties.**

137 (1) (a) If a legislative office candidate fails to file an interim report due before the
138 regular primary election, on August 31, or before the regular general election, the lieutenant
139 governor shall, after making a reasonable attempt to discover if the report was timely filed:

140 (i) inform the county clerk and other appropriate election officials who:

141 (A) (I) shall, if practicable, remove the name of the candidate from the ballots before
142 the ballots are delivered to voters; or

143 (II) shall, if removing the candidate's name from the ballot is not practicable, inform
144 the voters by any practicable method that the candidate has been disqualified and that votes
145 cast for the candidate will not be counted; and

146 (B) may not count any votes for that candidate; and

147 (ii) impose a fine against the filing entity in accordance with Section 20A-11-1005.

148 (b) Any legislative office candidate who fails to file timely a financial statement
149 required by Subsection 20A-11-303(1)(b), (c), or (d) is disqualified [~~and the vacancy on the~~
150 ~~ballot may be filled as provided in Section 20A-1-501~~].

151 (c) Notwithstanding Subsections (1)(a) and (1)(b), a legislative office candidate is not

152 disqualified and the lieutenant governor may not impose a fine if:

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

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

158 (iii) the omissions, errors, or inaccuracies described in Subsection (1)(c)(ii) are
159 corrected in:

160 (A) an amended report; or

161 (B) the next scheduled report.

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

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

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

167 (b) If it appears that any legislative office candidate has failed to file the summary
168 report required by law, if it appears that a filed summary report does not conform to the law, or
169 if the lieutenant governor has received a written complaint alleging a violation of the law or the
170 falsity of any summary report, the lieutenant governor shall, within five days of discovery of a
171 violation or receipt of a written complaint, notify the legislative office candidate of the
172 violation or written complaint and direct the legislative office candidate to file a summary
173 report correcting the problem.

174 (c) (i) It is unlawful for any legislative office candidate to fail to file or amend a
175 summary report within 14 days after receiving notice from the lieutenant governor under this
176 section.

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

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

181 Section 4. Section **20A-11-1005** is amended to read:

182 **20A-11-1005. Fines for failing to file a financial statement.**

183 (1) The chief election officer shall fine a filing entity, other than a candidate, \$100 for
 184 failing to file a financial statement by the filing deadline.

185 (2) The chief election officer shall fine a candidate for failing to file a financial
 186 statement by the filing deadline. The fine shall be:

187 (a) \$500 for a candidate who is required to be certified by a political party; or

188 (b) \$100 for all other candidates.

189 ~~[(2)]~~ (3) If a filing entity is unable to pay the fine or files an affidavit of impecuniosity
 190 in a manner similar to Subsection 20A-9-201(5)(d), the chief election officer shall impose the
 191 fine against the candidate or treasurer, as appropriate.

192 ~~[(3)]~~ (4) The chief election officer shall deposit fines collected under this chapter in the
 193 General Fund.

194 Section 5. Section **20A-11-1305** is amended to read:

195 **20A-11-1305. School board office candidate -- Failure to file statement --**
 196 **Penalties.**

197 (1) (a) If a school board office candidate fails to file an interim report due before the
 198 regular primary election, on August 31, or before the regular general election, the chief election
 199 officer shall, after making a reasonable attempt to discover if the report was timely filed:

200 (i) inform the county clerk and other appropriate election officials who:

201 (A) (I) shall, if practicable, remove the name of the candidate from the ballots before
 202 the ballots are delivered to voters; or

203 (II) shall, if removing the candidate's name from the ballot is not practicable, inform
 204 the voters by any practicable method that the candidate has been disqualified and that votes
 205 cast for candidate will not be counted; and

206 (B) may not count any votes for that candidate; and

207 (ii) impose a fine against the filing entity in accordance with Section 20A-11-1005.

208 (b) Any school board office candidate who fails to file timely a financial statement
 209 required by Subsection 20A-11-1303(1)(b), (c), or (d) is disqualified [~~and the vacancy on the~~
 210 ~~ballot may be filled as provided in Section 20A-1-501~~].

211 (c) Notwithstanding Subsections (1)(a) and (1)(b), a school board office candidate is
 212 not disqualified and the chief election officer may not impose a fine if:

213 (i) the candidate timely files the reports required by this section in accordance with

214 Section 20A-11-103;

215 (ii) those reports are completed, detailing accurately and completely the information
216 required by this part except for inadvertent omissions or insignificant errors or inaccuracies;
217 and

218 (iii) those omissions, errors, or inaccuracies described in Subsection (1)(c)(ii) are
219 corrected in:

220 (A) an amended report; or

221 (B) the next scheduled report.

222 (2) (a) Within 30 days after a deadline for the filing of a summary report by a candidate
223 for state school board, the lieutenant governor shall review each filed summary report to ensure
224 that:

225 (i) each state school board candidate that is required to file a summary report has filed
226 one; and

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

228 (b) If it appears that any state school board candidate has failed to file the summary
229 report required by law, if it appears that a filed summary report does not conform to the law, or
230 if the lieutenant governor has received a written complaint alleging a violation of the law or the
231 falsity of any summary report, the lieutenant governor shall, within five days of discovery of a
232 violation or receipt of a written complaint, notify the state school board candidate of the
233 violation or written complaint and direct the state school board candidate to file a summary
234 report correcting the problem.

235 (c) (i) It is unlawful for any state school board candidate to fail to file or amend a
236 summary report within 14 days after receiving notice from the lieutenant governor under this
237 section.

238 (ii) Each state school board candidate who violates Subsection (2)(c)(i) is guilty of a
239 class B misdemeanor.

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

242 (3) (a) Within 30 days after a deadline for the filing of a summary report, the county
243 clerk shall review each filed summary report to ensure that:

244 (i) each local school board candidate that is required to file a summary report has filed

245 one; and

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

247 (b) If it appears that any local school board candidate has failed to file the summary
248 report required by law, if it appears that a filed summary report does not conform to the law, or
249 if the county clerk has received a written complaint alleging a violation of the law or the falsity
250 of any summary report, the county clerk shall, within five days of discovery of a violation or
251 receipt of a written complaint, notify the local school board candidate of the violation or
252 written complaint and direct the local school board candidate to file a summary report
253 correcting the problem.

254 (c) (i) It is unlawful for any local school board candidate to fail to file or amend a
255 summary report within 14 days after receiving notice from the county clerk under this section.

256 (ii) Each local school board candidate who violates Subsection (3)(c)(i) is guilty of a
257 class B misdemeanor.

258 (iii) The county clerk shall report all violations of Subsection (3)(c)(i) to the district or
259 county attorney.

Legislative Review Note
as of 2-20-13 2:16 PM

Office of Legislative Research and General Counsel