

Representative Kraig Powell proposes the following substitute bill:

LIEUTENANT GOVERNOR CANDIDATE AMENDMENTS

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Peter C. Knudson

House Sponsor: Kraig Powell

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 person who has filed a declaration of candidacy for another office to withdraw as a candidate for that office and 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

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



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

27 **20A-9-201. Declarations of candidacy -- Candidacy for more than one office or of**
28 **more than one political party prohibited with exceptions -- General filing and form**
29 **requirements -- Affidavit of impecuniosity.**

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

31 (a) be a United States citizen; and

32 (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.