

HB0069S01 compared with HB0069

~~text~~ shows text that was in HB0069 but was deleted in HB0069S01.

text shows text that was not in HB0069 but was inserted into HB0069S01.

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Representative Justin L. Fawson proposes the following substitute bill:

QUALIFIED POLITICAL PARTY AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Fred C. Cox

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions of the Election Code relating to qualified political parties.

Highlighted Provisions:

This bill:

- ▶ amends the definition of a qualified political party ~~in relation to~~ by:
 - removing the provision that requires a qualified political party to allow unaffiliated voters to vote for the party's candidates in a primary race;
 - modifying the requirement that a qualified political party allow delegates to vote remotely or provide for the appointment of alternate delegates; and
 - providing that a qualified political party may choose whether to allow the qualified political party's candidates to be nominated by convention, signature gathering, or both; and

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► makes technical and conforming amendments.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

20A-9-101, as last amended by Laws of Utah 2015, Chapter 296

20A-9-406, as last amended by Laws of Utah 2015, Chapter 296

20A-9-407, as last amended by Laws of Utah 2015, Chapter 296

20A-9-408, as last amended by Laws of Utah 2015, Chapter 296

20A-9-408.5, as enacted by Laws of Utah 2015, Chapter 296

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

Section 1. Section **20A-9-101** is amended to read:

20A-9-101. Definitions.

As used in this chapter:

(1) (a) "Candidates for elective office" means persons who file a declaration of candidacy under Section 20A-9-202 to run in a regular general election for a federal office, constitutional office, multicounty office, or county office.

(b) "Candidates for elective office" does not mean candidates for:

(i) justice or judge of court of record or not of record;

(ii) presidential elector;

(iii) any political party offices; and

(iv) municipal or local district offices.

(2) "Constitutional office" means the state offices of governor, lieutenant governor, attorney general, state auditor, and state treasurer.

(3) "Continuing political party" means the same as that term is defined in Section 20A-8-101.

(4) (a) "County office" means an elective office where the office holder is selected by voters entirely within one county.

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(b) "County office" does not mean:

- (i) the office of justice or judge of any court of record or not of record;
- (ii) the office of presidential elector;
- (iii) any political party offices;
- (iv) any municipal or local district offices; and
- (v) the office of United States Senator and United States Representative.

(5) "Federal office" means an elective office for United States Senator and United States Representative.

(6) "Filing officer" means:

(a) the lieutenant governor, for:

- (i) the office of United States Senator and United States Representative; and
- (ii) all constitutional offices;

(b) the county clerk, for county offices and local school district offices, and the county clerk in the filer's county of residence, for multicounty offices;

(c) the city or town clerk, for municipal offices; and

(d) the local district clerk, for local district offices.

(7) "Local district office" means an elected office in a local district.

(8) "Local government office" includes county offices, municipal offices, and local district offices and other elective offices selected by the voters from a political division entirely within one county.

(9) (a) "Multicounty office" means an elective office where the office holder is selected by the voters from more than one county.

(b) "Multicounty office" does not mean:

- (i) a county office;
- (ii) a federal office;
- (iii) the office of justice or judge of any court of record or not of record;
- (iv) the office of presidential elector;
- (v) any political party offices; and
- (vi) any municipal or local district offices.

(10) "Municipal office" means an elective office in a municipality.

(11) (a) "Political division" means a geographic unit from which an office holder is

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elected and that an office holder represents.

(b) "Political division" includes a county, a city, a town, a local district, a school district, a legislative district, and a county prosecution district.

(12) "Qualified political party" means a registered political party that:

~~[(a) permits voters who are unaffiliated with any political party to vote for the registered political party's candidates in a primary election;]~~

~~[(b)]~~ ~~(b)~~ a does one or ~~both~~ more of the following:

~~[(b)]~~ (i) permits a delegate for the registered political party to vote on a candidate nomination in the registered political party's convention remotely; or

(ii) provides a procedure for designating an alternate delegate if ~~[a] at least one week before the day on which the convention begins,~~ the delegate notifies the registered political party, in writing, that the delegate [is] will not be present at the registered political party's convention;

~~[(c)]~~ (b) does not hold the registered political party's convention before the fourth Saturday in March of an even-numbered year;

~~[(d) permits a member of the registered political party to seek the registered political party's nomination for any elective office by the member choosing to seek the nomination by either or both of the following methods:]~~

~~[(i) seeking the nomination through the registered political party's convention process, in accordance with the provisions of Section 20A-9-407; or]~~

~~[(ii) seeking the nomination by collecting signatures, in accordance with the provisions of Section 20A-9-408; and]~~

~~]~~

(c) (i) only permits an individual to seek the nomination of the registered political party by using the method described in Section 20A-9-407;

(ii) only permits an individual to seek the nomination of the registered political party by using the method described in Section 20A-9-408;

(iii) permits an individual to seek the nomination by the individual choosing to use either the method described in Section 20A-9-407 or the method described in Section 20A-9-408; or

(iv) permits an individual to seek the nomination by the individual choosing to use

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both the method described in Section 20A-9-407 and the method described in Section 20A-9-408; and

(e) (i) if the registered political party is a continuing political party, no later than 5 p.m. on September 30 of an odd-numbered year, certifies to the lieutenant governor that, for the election in the following year, the registered political party intends to nominate the registered political party's candidates in accordance with the provisions of Section 20A-9-406; or

(ii) if the registered political party is not a continuing political party, certifies at the time that the registered political party files the petition described in Section 20A-8-103 that, for the next election, the registered political party intends to nominate the registered political party's candidates in accordance with the provisions of Section 20A-9-406.

Section 2. Section 20A-9-406 is amended to read:

20A-9-406. Qualified political party -- Requirements and exemptions.

The following provisions apply to a qualified political party:

(1) the qualified political party shall, no later than 5 p.m. on March 1 of each even-numbered year, certify to the lieutenant governor the identity of one or more registered political parties whose members may vote for the qualified political party's candidates;

(2) the provisions of Subsections 20A-9-403(1) through (4)(a), Subsection 20A-9-403(5)(c), and Section 20A-9-405 do not apply to a nomination for the qualified political party;

(3) an individual may [only] seek the nomination of the qualified political party by using [a method]:

(a) only the method described in Section 20A-9-407, if the qualified political party only allows nomination using that method;

(b) only the method described in Section 20A-9-408, [or both,] if the qualified political party only allows nomination using that method;

(c) either the method described in Section 20A-9-407 or the method described in Section 20A-9-408, if the qualified political party allows an individual to choose only one of these methods to seek the nomination; or

(d) both the method described in Section 20A-9-407 and the method described in Section 20A-9-408, if the qualified political party allows an individual to seek the nomination using both of these methods;

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(4) the qualified political party shall comply with the provisions of [Sections]:

(a) Section 20A-9-407, if the qualified political party permits nomination by convention;

(b) Section 20A-9-408, if the qualified political party permits nomination by signature gathering; and

(c) Section 20A-9-409;

(5) notwithstanding Subsection 20A-6-301(1)(a), (1)(g), or (2)(a), each election officer shall ensure that a ballot described in Section 20A-6-301 includes each person nominated by a qualified political party:

(a) under the qualified political party's name and emblem, if any; or

(b) under the title of the qualified registered political party as designated by the qualified political party in the certification described in Subsection (1), or, if none is designated, then under some suitable title;

(6) notwithstanding Subsection 20A-6-302(1)(a), each election officer shall ensure, for paper ballots in regular general elections, that each candidate who is nominated by the qualified political party is listed by party;

(7) notwithstanding Subsection 20A-6-303(1)(g), each election officer shall ensure that the party designation of each candidate who is nominated by the qualified political party is printed immediately adjacent to the candidate's name on ballot sheets or ballot labels;

(8) notwithstanding Subsection 20A-6-304(1)(g), each election officer shall ensure that the party designation of each candidate who is nominated by the qualified political party is displayed adjacent to the candidate's name on an electronic ballot;

(9) "candidates for elective office," defined in Subsection 20A-9-101(1)(a), also includes an individual who files a declaration of candidacy under Section 20A-9-407, if that nomination method is permitted by the party, or Section 20A-9-408, if that nomination method is permitted by the party, to run in a regular general election for a federal office, constitutional office, multicounty office, or county office;

(10) an individual who is nominated by, or seeking the nomination of, the qualified political party is not required to comply with Subsection 20A-9-201(1)(c);

(11) notwithstanding Subsection 20A-9-403(3), the qualified political party is entitled to have each of the qualified political party's candidates for elective office appear on the

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primary ballot of the qualified political party with an indication that each candidate is a candidate for the qualified political party;

(12) notwithstanding Subsection 20A-9-403(4)(a), the lieutenant governor shall include on the list provided by the lieutenant governor to the county clerks:

(a) the names of all candidates of the qualified political party for federal, constitutional, multicounty, and county offices; and

(b) the names of unopposed candidates for elective office who have been nominated by the qualified political party and instruct the county clerks to exclude such candidates from the primary-election ballot;

(13) notwithstanding Subsection 20A-9-403(5)(c), a candidate who is unopposed for an elective office in the regular primary election of the qualified political party is nominated by the party for that office without appearing on the primary ballot; and

(14) notwithstanding the provisions of Subsections 20A-9-403(1) and (2) and Section 20A-9-405, the qualified political party is entitled to have the names of its candidates for elective office featured with party affiliation on the ballot at a regular general election.

Section 3. Section 20A-9-407 is amended to read:

20A-9-407. Convention process to seek the nomination of a qualified political party.

(1) This section:

(a) only applies to a qualified political party that permits nominations using a convention process; and

(b) describes the requirements for a member of a qualified political party who is seeking the nomination of [a] the qualified political party for an elective office through the qualified political party's convention process.

(2) Notwithstanding Subsection 20A-9-201(4)(a), the form of the declaration of candidacy for a member of a qualified political party who is nominated by, or who is seeking the nomination of, the qualified political party under this section shall be substantially as described in Section 20A-9-408.5.

(3) Notwithstanding Subsection 20A-9-202(1)(a), and except as provided in Subsection 20A-9-202(4), a member of a qualified political party who, under this section, is seeking the nomination of the qualified political party for an elective office that is to be filled at the next

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general election, shall:

(a) file a declaration of candidacy in person with the filing officer on or after the second Friday in March and before 5 p.m. on the third Thursday in March before the next regular general election; and

(b) pay the filing fee.

(4) Notwithstanding Subsection 20A-9-202(2)(a), a member of a qualified political party who, under this section, is seeking the nomination of the qualified political party for the office of district attorney within a multicounty prosecution district that is to be filled at the next general election shall:

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

(b) pay the filing fee.

(5) Notwithstanding Subsection 20A-9-202(3)(a)(iii), a lieutenant governor candidate who files as the joint-ticket running mate of an individual who is nominated by a qualified political party, under this section, for the office of governor shall submit a letter from the candidate for governor that names the lieutenant governor candidate as a joint-ticket running mate.

(6) (a) A qualified political party that nominates a candidate under this section shall certify the name of the candidate to the lieutenant governor before 5 p.m. on the first Monday after the fourth Saturday in April.

(b) The lieutenant governor shall ensure that the certification described in Subsection 20A-9-701(1) also includes the name of each candidate nominated by a qualified political party under this section.

(7) Notwithstanding Subsection 20A-9-701(2), the ballot shall, for each candidate who is nominated by a qualified political party under this section, designate the qualified political party that nominated the candidate.

Section 4. Section 20A-9-408 is amended to read:

20A-9-408. Signature-gathering process to seek the nomination of a qualified political party.

(1) This section:

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(a) only applies to a qualified political party that permits nominations using the signature gathering process described in this section; and

(b) describes the requirements for a member of a qualified political party who is seeking the nomination of the qualified political party for an elective office through the signature-gathering process described in this section.

(2) Notwithstanding Subsection 20A-9-201(4)(a), the form of the declaration of candidacy for a member of a qualified political party who is nominated by, or who is seeking the nomination of, the qualified political party under this section shall be substantially as described in Section 20A-9-408.5.

(3) Notwithstanding Subsection 20A-9-202(1)(a), and except as provided in Subsection 20A-9-202(4), a member of a qualified political party who, under this section, is seeking the nomination of the qualified political party for an elective office that is to be filled at the next general election shall:

(a) within the period beginning on January 1 before the next regular general election and ending on the third Thursday in March of the same year, and before gathering signatures under this section, file with the filing officer on a form approved by the lieutenant governor a notice of intent to gather signatures for candidacy that includes:

(i) the name of the member who will attempt to become a candidate for a registered political party under this section;

(ii) the name of the registered political party for which the member is seeking nomination;

(iii) the office for which the member is seeking to become a candidate;

(iv) the address and telephone number of the member; and

(v) other information required by the lieutenant governor;

(b) file a declaration of candidacy, in person, with the filing officer on or after the second Friday in March and before 5 p.m. on the third Thursday in March before the next regular general election; and

(c) pay the filing fee.

(4) Notwithstanding Subsection 20A-9-202(2)(a), a member of a qualified political party who, under this section, is seeking the nomination of the qualified political party for the office of district attorney within a multicounty prosecution district that is to be filled at the next

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general election shall:

(a) on or after January 1 before the next regular general election, and before gathering signatures under this section, file with the filing officer on a form approved by the lieutenant governor a notice of intent to gather signatures for candidacy that includes:

(i) the name of the member who will attempt to become a candidate for a registered political party under this section;

(ii) the name of the registered political party for which the member is seeking nomination;

(iii) the office for which the member is seeking to become a candidate;

(iv) the address and telephone number of the member; and

(v) other information required by the lieutenant governor;

(b) file a declaration of candidacy, in person, with the filing officer on or after the second Friday in March and before 5 p.m. on the third Thursday in March before the next regular general election; and

(c) pay the filing fee.

(5) Notwithstanding Subsection 20A-9-202(3)(a)(iii), a lieutenant governor candidate who files as the joint-ticket running mate of an individual who is nominated by a qualified political party, under this section, for the office of governor shall submit a letter from the candidate for governor that names the lieutenant governor candidate as a joint-ticket running mate.

(6) The lieutenant governor shall ensure that the certification described in Subsection 20A-9-701(1) also includes the name of each candidate nominated by a qualified political party under this section.

(7) Notwithstanding Subsection 20A-9-701(2), the ballot shall, for each candidate who is nominated by a qualified political party under this section, designate the qualified political party that nominated the candidate.

(8) A member of a qualified political party may seek the nomination of the qualified political party for an elective office by:

(a) complying with the requirements described in this section; and

(b) collecting signatures, on a form approved by the lieutenant governor, during the period beginning on January 1 of an even-numbered year and ending 14 days before the day on

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which the qualified political party's convention for the office is held, in the following amounts:

(i) for a statewide race, 28,000 signatures of registered voters in the state who are permitted by the qualified political party to vote for the qualified political party's candidates in a primary election;

(ii) for a congressional district race, 7,000 signatures of registered voters who are residents of the congressional district and are permitted by the qualified political party to vote for the qualified political party's candidates in a primary election;

(iii) for a state Senate district race, 2,000 signatures of registered voters who are residents of the state Senate district and are permitted by the qualified political party to vote for the qualified political party's candidates in a primary election;

(iv) for a state House district race, 1,000 signatures of registered voters who are residents of the state House district and are permitted by the qualified political party to vote for the qualified political party's candidates in a primary election; and

(v) for a county office race, signatures of 3% of the registered voters who are residents of the area permitted to vote for the county office and are permitted by the qualified political party to vote for the qualified political party's candidates in a primary election.

(9) (a) In order for a member of the qualified political party to qualify as a candidate for the qualified political party's nomination for an elective office under this section, the member shall:

(i) collect the signatures on a form approved by the lieutenant governor, using the same circulation and verification requirements described in Sections 20A-7-204 and 20A-7-205; and

(ii) submit the signatures to the election officer no later than 14 days before the day on which the qualified political party holds its convention to select candidates, for the elective office, for the qualified political party's nomination.

(b) An individual may not gather signatures under this section until after the individual files a notice of intent to gather signatures for candidacy described in this section.

(c) An individual who files a notice of intent to gather signatures for candidacy, described in Subsection (3)(a) or (4)(a), is, beginning on the day on which the individual files the notice of intent to gather signatures for candidacy:

(i) required to comply with the reporting requirements that a candidate for office is required to comply with; and

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(ii) subject to the same enforcement provisions, and civil and criminal penalties, that apply to a candidate for office in relation to the reporting requirements described in Subsection (9)(c)(i).

(d) Upon timely receipt of the signatures described in Subsections (8) and (9)(a), the election officer shall, no later than one day before the day on which the qualified political party holds the convention to select a nominee for the elective office to which the signature packets relate:

(i) check the name of each individual who completes the verification for a signature packet to determine whether each individual is a resident of Utah and is at least 18 years old;

(ii) submit the name of each individual described in Subsection (9)(d)(i) who is not a Utah resident or who is not at least 18 years old to the attorney general and the county attorney;

(iii) determine whether each signer is a registered voter who is qualified to sign the petition, using the same method, described in Section 20A-7-206.3, used to verify a signature on a petition;

(iv) certify whether each name is that of a registered voter who is qualified to sign the signature packet; and

(v) notify the qualified political party and the lieutenant governor of the name of each member of the qualified political party who qualifies as a nominee of the qualified political party, under this section, for the elective office to which the convention relates.

(e) Upon receipt of a notice of intent to gather signatures for candidacy described in this section, the lieutenant governor shall post the notice of intent to gather signatures for candidacy on the lieutenant governor's website in the same location that the lieutenant governor posts a declaration of candidacy.

Section 5. Section 20A-9-408.5 is amended to read:

20A-9-408.5. Declaration of candidacy form for qualified political party.

The declaration of candidacy form described in Sections 20A-9-407 and 20A-9-408 shall:

(1) be substantially as follows:

"State of Utah, County of _____

I, _____, declare my intention of becoming a candidate for the office of _____ as a candidate for the _____ party. I do solemnly swear that: I will meet the qualifications

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to hold the office, both legally and constitutionally, if selected; I reside at _____ in the City or Town of _____, Utah, Zip Code _____, Phone No. _____; I will not knowingly violate any law governing campaigns and elections; I will file all campaign financial disclosure reports as required by law; and I understand that failure to do so will result in my disqualification as a candidate for this office and removal of my name from the ballot. The mailing address that I designate for receiving official election notices is

Subscribed and sworn before me this _____ (month\day\year). Notary Public (or other officer qualified to administer oath).":

(2) direct the candidate to state, in the sworn statement described in Subsection (1):

(a) the registered political party of which the candidate is a member; or

(b) that the candidate is not a member of a registered political party; and

(3) direct the candidate to indicate whether the candidate is seeking the nomination

using:

(a) the convention process described in Section 20A-9-407, if that nominating process is permitted by the qualified political party;

(b) the signature-gathering process described in Section 20A-9-408, if that nominating process is permitted by the qualified political party; or

(c) both processes described in Subsections (3)(a) and (b), if the qualified political party permits a candidate to seek the party's nomination using both of those processes.

Section 6. Effective date.

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

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Legislative Review Note

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~~Office of Legislative Research and General Counsel~~