

**CERTIFICATION OF CANDIDATES FOR
POLITICAL OFFICES**

2003 GENERAL SESSION
STATE OF UTAH

Sponsor: Neil A. Hansen

This act modifies Election Code provisions governing declarations of candidacy. This act defers the declaration of candidacy filing period to later in the year to allow political parties to nominate candidates who have not filed declarations of candidacy. This act requires candidates for the primary and general election to file declarations of candidacy between May 1 and May 5 and modifies the dates for challenging a declaration of candidacy. This act makes technical corrections.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

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

20A-9-202, as last amended by Chapter 45, Laws of Utah 1999

20A-12-201, as last amended by Chapter 308, Laws of Utah 2001

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

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

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

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

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

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

(ii) the vacancy occurs before ~~[March 17]~~ May 5 of the even-numbered year.



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

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

(i) file a declaration of candidacy according to the procedures and requirements of Title 20A, Chapter 9, Part 2;

(ii) if nominated as a party candidate or qualified as an independent or write-in candidate under Title 20A, Chapter 9, run in the regular general election; and

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

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

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

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

(ii) the vacancy occurs after ~~[March 16]~~ May 5 of the even-numbered year but more than 50 days before the regular primary election.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(f) The governor shall appoint a person to fill the vacancy from that list of nominees

within 30 days after receipt of the letter.

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

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

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

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

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

(i) file a declaration of candidacy in person with the county clerk between the March 7 and before 5 p.m. on the March 17 before the next regular general election; and

(ii) pay the filing fee.

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

(i) file a declaration of candidacy in person with either the lieutenant governor or the county clerk in the candidate's county of residence between the March 7 and before 5 p.m. on the March 17 before the next regular general election; and

(ii) pay the filing fee.

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

(i) file a declaration of candidacy in person with the county clerk between the May 1 and before 5 p.m. on the May 5 before the next regular general election; and

(ii) pay the filing fee.

(d) Each person intending to become a candidate for any legislative office or multicounty office, including lieutenant governor, that is to be filled at the next regular general election shall:

(i) file a declaration of candidacy in person with either the lieutenant governor or the county clerk in the candidate's county of residence between the May 1 and before 5 p.m. on the May 5 before the next regular general election; and

(ii) pay the filing fee.

121 ~~[(e)]~~ (e) (i) Each county clerk who receives a declaration of candidacy from a candidate
122 for multicounty office shall transmit the filing fee and a copy of the candidate's declaration of
123 candidacy to the lieutenant governor within one working day after it is filed.

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

126 ~~[(d)]~~ (f) Each person seeking to become a candidate for elective office for any federal
127 office or constitutional office that is to be filled at the next regular general election shall:

128 (i) file a declaration of candidacy in person with the lieutenant governor between the
129 ~~[March 7]~~ May 1 and before 5 p.m. on the ~~[March 17]~~ May 5 before the next regular general
130 election; and

131 (ii) pay the filing fee.

132 ~~[(e)]~~ (g) Each person seeking the office of ~~[lieutenant governor, the office of]~~ district
133 attorney, or the office of President or Vice President of the United States shall comply with the
134 specific declaration of candidacy requirements established by this section.

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

138 (i) file a declaration of candidacy with the clerk designated in the interlocal agreement
139 creating the prosecution district between the ~~[March 7]~~ May 1 and before 5 p.m. on the ~~[March~~
140 ~~17]~~ May 5 before the next regular general election; and

141 (ii) pay the filing fee.

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

145 ~~[(3) (a) Within five working days of nomination, each lieutenant governor candidate~~
146 ~~shall:]~~

147 ~~[(i) file a declaration of candidacy with the lieutenant governor; and]~~

148 ~~[(ii) pay the filing fee.]~~

149 ~~[(b) (i)]~~ (3) (a) Any candidate ~~[for lieutenant governor]~~ who fails to file ~~[within five~~
150 ~~working days]~~ a declaration of candidacy between May 1 and May 5 is disqualified.

151 ~~[(ii)]~~ (b) If a ~~[lieutenant governor]~~ candidate is disqualified, the political party may

152 nominate and certify another candidate [~~shall be nominated~~] to replace the disqualified
153 candidate.

154 (4) Each registered political party shall:

155 (a) certify the names of its candidates for President and Vice President of the United
156 States to the lieutenant governor by August 30; or

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

160 (5) (a) A declaration of candidacy filed under this section is valid unless a written
161 objection is filed with the clerk or lieutenant governor [~~within five days after the last day for~~
162 ~~filing~~] by May 10.

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

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

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

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

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

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

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

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

177 Section 3. Section **20A-12-201** is amended to read:

178 **20A-12-201. Judicial appointees -- Retention elections.**

179 (1) (a) Each appointee to a court of record is subject to an unopposed retention election
180 at the first general election held more than three years after the judge or justice was appointed.

181 (b) After the first retention election:

182 (i) each Supreme Court justice shall be on the regular general election ballot for an

unopposed retention election every tenth year; and

(ii) each judge of other courts of record shall be on the regular general election ballot for an unopposed retention election every sixth year.

(2) (a) Each justice or judge of a court of record who wishes to retain office shall, in the year the justice or judge is subject to a retention election:

(i) file a declaration of candidacy as [if] a candidate for a nonpartisan multicounty office in accordance with Section 20A-9-202; and

(ii) pay a filing fee of \$50.

(b) Each county justice judge who wishes to retain office shall, in the year the justice or judge is subject to a retention election:

(i) file a declaration of candidacy as [if] a candidate for a nonpartisan county office in accordance with Section 20A-9-202; and

(ii) pay a filing fee of \$25.

(3) (a) The lieutenant governor shall, by September 1 of each regular general election year:

(i) transmit a certified list containing the names of the justices of the Supreme Court and judges of the Court of Appeals declaring their candidacy to the county clerk of each county; and

(ii) transmit a certified list containing the names of judges of other courts declaring their candidacy to the county clerk of each county in the geographic division in which the judge filing the declaration holds office.

(b) Each county clerk shall place the names of justices and judges standing for retention election in the nonpartisan section of the ballot.

(4) At the general election, the ballots shall contain, as to each justice or judge of any court to be voted on in the county, the following question:

"Shall _____ (name of justice or judge) be retained in the office of _____?" (name of office, such as "Justice of the Supreme Court of Utah"; "Judge of the Court of Appeals of Utah"; "Judge of the District Court of the Third Judicial District;" "Judge of the Juvenile Court of the Fourth Juvenile Court District"; "County Justice Court Judge of (name of county) County")

Yes ()

214 No ()."

215 (5) (a) If the justice or judge receives more yes votes than no votes, the justice or judge

216 is retained for the term of office provided by law.

217 (b) If the justice or judge does not receive more yes votes than no votes, the justice or

218 judge is not retained, and a vacancy exists in the office on the first Monday in January after the

219 regular general election.

220 (6) A justice or judge not retained is ineligible for appointment to the office for which

221 the justice or judge was defeated until after the expiration of that term of office.

Legislative Review Note
as of 9-30-02 3:42 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel

Fiscal Note**Certification of Candidates for Political Offices***30-Jan-03***Bill Number HB0099***9:58 AM*

State Impact

It is estimated that in each general election year, the lost revenue passed through the State to the counties will be \$11,600. Counties will also lose revenue as a result of fewer partisan candidates filing for elections to local office.

Individual and Business Impact

No significant fiscal impact.

Office of the Legislative Fiscal Analyst