

1 **WESTERN STATES PRESIDENTIAL PRIMARY**

2 2006 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Peter C. Knudson**

5 House Sponsor: Fred R. Hunsaker

6 Cosponsor: Mike Dmitrich

7
8 **LONG TITLE**

9 **General Description:**

10 This bill modifies provisions of the Election Code to permit the Western States
11 Presidential Primary to be held on the first Tuesday in February in a presidential
12 election year.

13 **Highlighted Provisions:**

14 This bill:

- 15 ▶ changes the date for the Western States Presidential Primary election in Utah to the
16 first Tuesday in February in a presidential election year;
- 17 ▶ modifies dates for canvassing votes cast in a Western States Primary;
- 18 ▶ modifies the dates for voter registration prior to a Western States Presidential
19 Primary;
- 20 ▶ modifies the date for filing a declaration of candidacy for a Western States
21 Presidential Primary; and
- 22 ▶ makes technical changes.

23 **Monies Appropriated in this Bill:**

24 None

25 **Other Special Clauses:**

26 None

27 **Utah Code Sections Affected:**

SB0060

S.B. 60 LEGISLATIVE GENERAL COUNSEL
⌘ Approved for Filing: E.N. Weeks ⌘
⌘ 01-11-06 12:54 PM ⌘

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28 AMENDS:

29 20A-1-201.5, as enacted by Chapter 22, Laws of Utah 1999

30 20A-4-301, as last amended by Chapter 105, Laws of Utah 2005

31 20A-4-304, as last amended by Chapter 11, Laws of Utah 2002, Fifth Special Session

32 20A-4-306, as last amended by Chapter 11, Laws of Utah 2002, Fifth Special Session

33 20A-9-802, as last amended by Chapter 165, Laws of Utah 2003

34 20A-9-803, as enacted by Chapter 22, Laws of Utah 1999

35 20A-9-804, as enacted by Chapter 22, Laws of Utah 1999



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

38 Section 1. Section 20A-1-201.5 is amended to read:

39 **20A-1-201.5. Primary election dates.**

40 (1) A regular primary election shall be held throughout the state on the fourth Tuesday
41 of June of each even numbered year as provided in Section 20A-9-403, to nominate persons for
42 national, state, school board, and county offices.

43 (2) A municipal primary election shall be held, if necessary, on the Tuesday following
44 the first Monday in October before the regular municipal election to nominate persons for
45 municipal and special district offices.

46 (3) The Western States Presidential Primary election shall be held throughout the state
47 on the first [~~Friday after the first Monday~~] Tuesday in [~~March~~] February in the year in which a
48 presidential election will be held.

49 Section 2. Section 20A-4-301 is amended to read:

50 **20A-4-301. Board of canvassers.**

51 (1) (a) Each county legislative body is the board of county canvassers for:

52 (i) the county; and

53 (ii) each special district whose election is conducted by the county.

54 (b) (i) Except as provided in Subsection (1)(b)(ii), the board of county canvassers shall
55 meet to canvass the returns at the usual place of meeting of the county legislative body, at a
56 date and time determined by the county clerk that is no sooner than seven days after the
57 election and no later than 14 days after the election.

58 (ii) When canvassing returns for the Western States Presidential Primary, the board of

59 county canvassers shall meet to canvass the returns at the usual place of meeting of the county
60 legislative body, at noon on the [~~Thursday~~] Tuesday after the election.

61 (c) If one or more of the county legislative body fails to attend the meeting of the board
62 of county canvassers, the remaining members shall replace the absent member by appointing in
63 the order named:

64 (i) the county treasurer;

65 (ii) the county assessor; or

66 (iii) the county sheriff.

67 (d) The board of county canvassers shall always consist of three acting members.

68 (e) The county clerk is the clerk of the board of county canvassers.

69 (2) (a) The mayor and the municipal legislative body are the board of municipal
70 canvassers for the municipality.

71 (b) The board of municipal canvassers shall meet to canvass the returns at the usual
72 place of meeting of the municipal legislative body:

73 (i) for canvassing of returns from a municipal general election, no sooner than seven
74 days after the election and no later than 14 days after the election; or

75 (ii) for canvassing of returns from a municipal primary election, no sooner than three
76 days after the election and no later than seven days after the election.

77 (3) (a) The legislative body of the entity authorizing a bond election is the board of
78 canvassers for each bond election.

79 (b) The board of canvassers for the bond election shall comply with the canvassing
80 procedures and requirements of Section 11-14-207.

81 Section 3. Section **20A-4-304** is amended to read:

82 **20A-4-304. Declaration of results -- Canvassers' report.**

83 (1) Each board of canvassers shall:

84 (a) declare "elected" or "nominated" those persons who:

85 (i) had the highest number of votes; and

86 (ii) sought election or nomination to an office completely within the board's
87 jurisdiction;

88 (b) declare:

89 (i) "approved" those ballot propositions that:

- 90 (A) had more "yes" votes than "no" votes; and
- 91 (B) were submitted only to the voters within the board's jurisdiction;
- 92 (ii) "rejected" those ballot propositions that:
- 93 (A) had more "no" votes than "yes" votes or an equal number of "no" votes and "yes"
- 94 votes; and
- 95 (B) were submitted only to the voters within the board's jurisdiction;
- 96 (c) certify the vote totals for persons and for and against ballot propositions that were
- 97 submitted to voters within and beyond the board's jurisdiction and transmit those vote totals to
- 98 the lieutenant governor; and
- 99 (d) if applicable, certify the results of each special district election to the special district
- 100 clerk.
- 101 (2) (a) As soon as the result is declared, the election officer shall prepare a report of the
- 102 result, which shall contain:
- 103 (i) the total number of votes cast in the board's jurisdiction;
- 104 (ii) the names of each candidate whose name appeared on the ballot;
- 105 (iii) the title of each ballot proposition that appeared on the ballot;
- 106 (iv) each office that appeared on the ballot;
- 107 (v) from each voting precinct:
- 108 (A) the number of votes for each candidate; and
- 109 (B) the number of votes for and against each ballot proposition;
- 110 (vi) the total number of votes given in the board's jurisdiction to each candidate, and
- 111 for and against each ballot proposition; and
- 112 (vii) a statement certifying that the information contained in the report is accurate.
- 113 (b) The election officer and the board of canvassers shall:
- 114 (i) review the report to ensure that it is correct; and
- 115 (ii) sign the report.
- 116 (c) The election officer shall:
- 117 (i) record or file the certified report in a book kept for that purpose;
- 118 (ii) prepare and transmit a certificate of nomination or election under the officer's seal
- 119 to each nominated or elected candidate;
- 120 (iii) publish a copy of the certified report in a newspaper with general circulation in the

121 board's jurisdiction and post it in a conspicuous place within the jurisdiction; and

122 (iv) file a copy of the certified report with the lieutenant governor.

123 (3) When there has been a regular general or a statewide special election for statewide
124 officers, for officers that appear on the ballot in more than one county, or for a statewide or two
125 or more county ballot proposition, each board of canvassers shall:

126 (a) prepare a separate report detailing the number of votes for each candidate and the
127 number of votes for and against each ballot proposition; and

128 (b) transmit it by registered mail to the lieutenant governor.

129 (4) In each county election, municipal election, school election, special district
130 election, and local special election, the election officer shall transmit the reports to the
131 lieutenant governor within 14 days of the canvass.

132 (5) In regular primary elections and in the Western States Presidential Primary, the
133 board shall transmit to the lieutenant governor:

134 (a) the county totals for multi-county races, to be telephoned or faxed to the lieutenant
135 governor:

136 (i) not later than the second Tuesday after the primary election for the regular primary
137 election; and

138 (ii) not later than the [~~Friday after~~] Tuesday following the election for the Western
139 States Presidential Primary; and

140 (b) a complete tabulation showing voting totals for all primary races, precinct by
141 precinct, to be mailed to the lieutenant governor on or before the third Friday following the
142 primary election.

143 Section 4. Section **20A-4-306** is amended to read:

144 **20A-4-306. Statewide canvass.**

145 (1) (a) The state board of canvassers shall convene:

146 (i) on the fourth Monday of November, at noon; or

147 (ii) at noon on the day following the receipt by the lieutenant governor of the last of the
148 returns of a statewide special election.

149 (b) The state auditor, the state treasurer, and the attorney general are the state board of
150 canvassers.

151 (2) (a) The state board of canvassers shall:

- 152 (i) meet in the lieutenant governor's office; and
- 153 (ii) compute and determine the vote for officers and for and against any ballot
- 154 propositions voted upon by the voters of the entire state or of two or more counties.
- 155 (b) The lieutenant governor, as secretary of the board shall file a report in his office
- 156 that details:
 - 157 (i) for each statewide officer and ballot proposition:
 - 158 (A) the name of the statewide office or ballot proposition that appeared on the ballot;
 - 159 (B) the candidates for each statewide office whose names appeared on the ballot, plus
 - 160 any recorded write-in candidates;
 - 161 (C) the number of votes from each county cast for each candidate and for and against
 - 162 each ballot proposition;
 - 163 (D) the total number of votes cast statewide for each candidate and for and against each
 - 164 ballot proposition; and
 - 165 (E) the total number of votes cast statewide; and
 - 166 (ii) for each officer or ballot proposition voted on in two or more counties:
 - 167 (A) the name of each of those offices and ballot propositions that appeared on the
 - 168 ballot;
 - 169 (B) the candidates for those offices, plus any recorded write-in candidates;
 - 170 (C) the number of votes from each county cast for each candidate and for and against
 - 171 each ballot proposition; and
 - 172 (D) the total number of votes cast for each candidate and for and against each ballot
 - 173 proposition.
 - 174 (c) The lieutenant governor shall:
 - 175 (i) prepare certificates of election for:
 - 176 (A) each successful candidate; and
 - 177 (B) each of the presidential electors of the candidate for president who received a
 - 178 majority of the votes;
 - 179 (ii) authenticate each certificate with his seal; and
 - 180 (iii) deliver a certificate of election to:
 - 181 (A) each candidate who had the highest number of votes for each office; and
 - 182 (B) each of the presidential electors of the candidate for president who received a

183 majority of the votes.

184 (3) If the lieutenant governor has not received election returns from all counties on the
185 fifth day before the day designated for the meeting of the state board of canvassers, the
186 lieutenant governor shall:

187 (a) send a messenger to the clerk of the board of county canvassers of the delinquent
188 county;

189 (b) instruct the messenger to demand a certified copy of the board of canvasser's report
190 required by Section 20A-4-304 from the clerk; and

191 (c) pay the messenger the per diem provided by law as compensation.

192 (4) The state board of canvassers may not withhold the declaration of the result or any
193 certificate of election because of any defect or informality in the returns of any election if the
194 board can determine from the returns, with reasonable certainty, what office is intended and
195 who is elected to it.

196 (5) (a) At noon on the fourth Monday after the regular primary election, the lieutenant
197 governor shall:

198 (i) canvass the returns for all multicounty candidates required to file with the office of
199 the lieutenant governor; and

200 (ii) publish and file the results of the canvass in the lieutenant governor's office.

201 (b) The lieutenant governor shall certify the results of the primary canvass to the
202 county clerks not later than the August 1 after the primary election.

203 (6) (a) At noon on the [~~third Thursday after~~] Tuesday that falls two weeks after the
204 Western States Presidential Primary election, the lieutenant governor shall:

205 (i) canvass the returns; and

206 (ii) publish and file the results of the canvass in the lieutenant governor's office.

207 (b) The lieutenant governor shall certify the results of the Western States Presidential
208 Primary canvass to each registered political party that participated in the primary not later than
209 the April 15 after the primary election, or the following business day if April 15 falls on a
210 Saturday, Sunday, or a holiday.

211 Section 5. Section **20A-9-802** is amended to read:

212 **20A-9-802. Western States Presidential Primary established -- Other ballot issues**
213 **prohibited.**

214 (1) (a) Contingent upon legislative appropriation, there is established a Western States
215 Presidential Primary election to be held [~~the last Friday~~] on the first Tuesday in February in the
216 year in which a presidential election will be held.

217 (b) Except as otherwise specifically provided in this chapter, county clerks shall
218 administer the Western States Presidential Primary according to the provisions of Title 20A,
219 Election Code, including:

- 220 (i) Title 20A, Chapter 1, General Provisions;
- 221 (ii) Title 20A, Chapter 2, Voter Registration;
- 222 (iii) Title 20A, Chapter 3, Voting;
- 223 (iv) Title 20A, Chapter 4, Election Returns and Election Contests;
- 224 (v) Title 20A, Chapter 5, Election Administration; and
- 225 (vi) Title 20A, Chapter 6, Ballot Form.

226 (c) (i) The county clerks shall ensure that the ballot voted by the voters at the Western
227 States Presidential Primary contains only the names of candidates for President of the United
228 States who have qualified as provided in this part.

229 (ii) The county clerks may not present any other items to the voters to be voted upon at
230 this election.

231 (2) Registered political parties, and candidates for President of the United States who
232 are affiliated with a registered political party, may participate in the Western States Presidential
233 Primary established by this part.

234 (3) As a condition for using the state's election system, each registered political party
235 wishing to participate in Utah's Western States Presidential Primary shall:

- 236 (a) declare their intent to participate in the Western States Presidential Primary;
- 237 (b) identify one or more registered political parties whose members may vote for the
238 registered political party's candidates and whether or not persons identified as unaffiliated with
239 a political party may vote for the registered political party's candidates; and

240 (c) certify that information to the lieutenant governor no later than 5 p.m. on the June
241 30 of the year before the year in which the presidential primary will be held, or the following
242 business day if June 30 falls on a Saturday, Sunday, or holiday.

243 Section 6. Section **20A-9-803** is amended to read:

244 **20A-9-803. Declaration of candidacy -- Filing fee -- Form.**

245 (1) (a) Candidates for President of the United States who are affiliated with a registered
246 political party in Utah that has elected to participate in Utah's Western States Presidential
247 Primary and who wish to participate in the primary shall:

248 (i) except as provided in Subsection (1)(b), file a declaration of candidacy, in person or
249 via a designated agent, with the lieutenant governor between July 1 of the year before the
250 primary election will be held and 5 p.m. on January 15 of the year in which the primary
251 election will be held;

252 (ii) identify the registered political party whose nomination the candidate is seeking;

253 (iii) provide a letter from the registered political party certifying that the candidate may
254 participate as a candidate for that party in that party's presidential primary election; and

255 (iv) pay the filing fee of \$500.

256 (b) If January 15 [~~is~~] falls on a Saturday [~~or~~], Sunday, or holiday, the filing time shall
257 be extended until 5 p.m. on the following [~~Monday~~] business day.

258 (2) The lieutenant governor shall develop a declaration of candidacy form for
259 presidential candidates participating in the primary.

260 Section 7. Section **20A-9-804** is amended to read:

261 **20A-9-804. Satellite registration provisions not applicable -- Registration with**
262 **county clerk.**

263 (1) Section 20A-2-203 and Section 20A-5-202 do not apply to the Western States
264 Presidential Primary.

265 (2) (a) For the Western States Presidential Primary election, each county clerk shall
266 register to vote all persons who present themselves for registration at the county clerk's office
267 during designated office hours through the [~~Friday~~] Tuesday before the [~~Friday~~] Tuesday of the
268 Western States Presidential Primary if those persons, on voting day, will be legally qualified
269 and entitled to vote in a voting precinct in the county.

270 (b) The county clerk shall record the names of person registering to vote during that
271 period in the official register and direct the election judges to allow those persons to vote in the
272 Western States Presidential Primary election if they present themselves at the voting precinct
273 on election day.

Legislative Review Note

as of 12-14-05 10:25 AM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

State Impact

The Governor's Office will require a one-time General Fund appropriation of \$850,000 in FY 2007 to be distributed to counties to implement provisions of the bill.

	<u>FY 2007</u> <u>Approp.</u>	<u>FY 2008</u> <u>Approp.</u>	<u>FY 2007</u> <u>Revenue</u>	<u>FY 2008</u> <u>Revenue</u>
General Fund	\$850,000	\$0	\$0	\$0
TOTAL	\$850,000	\$0	\$0	\$0

Individual and Business Impact

No fiscal impact.
