

1 **LIEUTENANT GOVERNOR CANDIDATE AMENDMENTS**

2 2013 GENERAL SESSION

3 STATE OF UTAH

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

5 House Sponsor: Kraig Powell

6

7 **LONG TITLE**

8 **Committee Note:**

9 The Government Operations Interim Committee recommended this bill.

10 **General Description:**

11 This bill amends provisions in Title 20A, Election Code, related to candidates for the
12 office of lieutenant governor.

13 **Highlighted Provisions:**

14 This bill:

- 15 ▶ allows a candidate for the office of lieutenant governor to file for more than one
16 office;
- 17 ▶ amends the deadline for a person to file a declaration of candidacy for the office of
18 lieutenant governor; and
- 19 ▶ makes technical changes.

20 **Money Appropriated in this Bill:**

21 None

22 **Other Special Clauses:**

23 None

24 **Utah Code Sections Affected:**

25 AMENDS:

26 **20A-9-201**, as last amended by Laws of Utah 2011, Third Special Session, Chapter 2

27 **20A-9-202**, as last amended by Laws of Utah 2011, Chapter 327



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

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

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

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

- (a) be a United States citizen; and
- (b) meet the legal requirements of that office.

(2) (a) Except as provided in Subsection (2)(b), a person may not:

- (i) file a declaration of candidacy for, or be a candidate for, more than one office in Utah during any election year; or
- (ii) appear on the ballot as the candidate of more than one political party.

(b) (i) A person may file a declaration of candidacy for, or be a candidate for, President or Vice President of the United States and another office, if the person resigns the person's candidacy for the other office after the person is officially nominated for President or Vice President of the United States.

(ii) A person may file a declaration of candidacy for, or be a candidate for, more than one justice court judge office.

(iii) A person may file a declaration of candidacy for lieutenant governor even if the person filed a declaration of candidacy for another office in the same election year if the person withdraws as a candidate for the other office in accordance with Subsection 20A-9-202(6) before filing the declaration of candidacy for lieutenant governor.

(3) (a) (i) Except for presidential candidates, before the filing officer may accept any declaration of candidacy, the filing officer shall:

- (A) read to the prospective candidate the constitutional and statutory qualification requirements for the office that the candidate is seeking; and
- (B) require the candidate to state whether or not the candidate meets those requirements.

(ii) Before accepting a declaration of candidacy for the office of county attorney, the county clerk shall ensure that the person filing that declaration of candidacy is:

- 59 (A) a United States citizen;
- 60 (B) an attorney licensed to practice law in Utah who is an active member in good
- 61 standing of the Utah State Bar;
- 62 (C) a registered voter in the county in which the person is seeking office; and
- 63 (D) a current resident of the county in which the person is seeking office and either has
- 64 been a resident of that county for at least one year or was appointed and is currently serving as
- 65 county attorney and became a resident of the county within 30 days after appointment to the
- 66 office.

67 (iii) Before accepting a declaration of candidacy for the office of district attorney, the

68 county clerk shall ensure that, as of the date of the election, the person filing that declaration of

69 candidacy is:

- 70 (A) a United States citizen;
- 71 (B) an attorney licensed to practice law in Utah who is an active member in good
- 72 standing of the Utah State Bar;
- 73 (C) a registered voter in the prosecution district in which the person is seeking office;
- 74 and
- 75 (D) a current resident of the prosecution district in which the person is seeking office
- 76 and either will have been a resident of that prosecution district for at least one year as of the
- 77 date of the election or was appointed and is currently serving as district attorney and became a
- 78 resident of the prosecution district within 30 days after receiving appointment to the office.

79 (iv) Before accepting a declaration of candidacy for the office of county sheriff, the

80 county clerk shall ensure that the person filing the declaration of candidacy:

- 81 (A) as of the date of filing:
 - 82 (I) is a United States citizen;
 - 83 (II) is a registered voter in the county in which the person seeks office;
 - 84 (III) (Aa) has successfully met the standards and training requirements established for
 - 85 law enforcement officers under Title 53, Chapter 6, Part 2, Peace Officer Training and
 - 86 Certification Act; or
 - 87 (Bb) has met the waiver requirements in Section 53-6-206; and
 - 88 (IV) is qualified to be certified as a law enforcement officer, as defined in Section
 - 89 53-13-103; and

90 (B) as of the date of the election, shall have been a resident of the county in which the
91 person seeks office for at least one year.

92 (v) Before accepting a declaration of candidacy for the office of governor, lieutenant
93 governor, state auditor, state treasurer, attorney general, state legislator, or State Board of
94 Education member, the filing officer shall ensure:

95 (A) that the person filing the declaration of candidacy also files the financial disclosure
96 required by Section 20A-11-1603; and

97 (B) if the filing officer is not the lieutenant governor, that the financial disclosure is
98 provided to the lieutenant governor according to the procedures and requirements of Section
99 20A-11-1603.

100 (b) If the prospective candidate states that the qualification requirements for the office
101 are not met, the filing officer may not accept the prospective candidate's declaration of
102 candidacy.

103 (c) If the candidate meets the requirements of Subsection (3)(a) and states that the
104 requirements of candidacy are met, the filing officer shall:

105 (i) inform the candidate that:

106 (A) the candidate's name will appear on the ballot as it is written on the declaration of
107 candidacy;

108 (B) the candidate may be required to comply with state or local campaign finance
109 disclosure laws; and

110 (C) the candidate is required to file a financial statement before the candidate's political
111 convention under:

112 (I) Section 20A-11-204 for a candidate for constitutional office;

113 (II) Section 20A-11-303 for a candidate for the Legislature; or

114 (III) local campaign finance disclosure laws, if applicable;

115 (ii) except for a presidential candidate, provide the candidate with a copy of the current
116 campaign financial disclosure laws for the office the candidate is seeking and inform the
117 candidate that failure to comply will result in disqualification as a candidate and removal of the
118 candidate's name from the ballot;

119 (iii) provide the candidate with a copy of Section 20A-7-801 regarding the Statewide
120 Electronic Voter Information Website Program and inform the candidate of the submission

121 deadline under Subsection 20A-7-801(4)(a);

122 (iv) provide the candidate with a copy of the pledge of fair campaign practices
123 described under Section 20A-9-206 and inform the candidate that:

124 (A) signing the pledge is voluntary; and

125 (B) signed pledges shall be filed with the filing officer;

126 (v) accept the candidate's declaration of candidacy; and

127 (vi) if the candidate has filed for a partisan office, provide a certified copy of the
128 declaration of candidacy to the chair of the county or state political party of which the
129 candidate is a member.

130 (d) If the candidate elects to sign the pledge of fair campaign practices, the filing
131 officer shall:

132 (i) accept the candidate's pledge; and

133 (ii) if the candidate has filed for a partisan office, provide a certified copy of the
134 candidate's pledge to the chair of the county or state political party of which the candidate is a
135 member.

136 (4) Except for presidential candidates, the form of the declaration of candidacy shall be
137 substantially as follows:

138 "State of Utah, County of ____

139 I, _____, declare my intention of becoming a candidate for the office
140 of ____ as a candidate for the ____ party. I do solemnly swear that: I will meet the
141 qualifications to hold the office, both legally and constitutionally, if selected; I reside at
142 _____ in the City or Town of _____, Utah, Zip Code _____ Phone No. _____; I
143 will not knowingly violate any law governing campaigns and elections; I will file all
144 campaign financial disclosure reports as required by law; and I understand that failure
145 to do so will result in my disqualification as a candidate for this office and removal of
146 my name from the ballot. The mailing address that I designate for receiving official
147 election notices is _____.

148 _____

149 Subscribed and sworn before me this _____(month\day\year).

150 Notary Public (or other officer qualified to administer oath.)"

151 (5) (a) Except for presidential candidates, the fee for filing a declaration of candidacy

152 is:

153 (i) \$25 for candidates for the local school district board; and
154 (ii) 1/8 of 1% of the total salary for the full term of office legally paid to the person
155 holding the office, but not less than \$5, for all other federal, state, and county offices.

156 (b) Except for presidential candidates, the filing officer shall refund the filing fee to
157 any candidate:

158 (i) who is disqualified; or

159 (ii) who the filing officer determines has filed improperly.

160 (c) (i) The county clerk shall immediately pay to the county treasurer all fees received
161 from candidates.

162 (ii) The lieutenant governor shall:

163 (A) apportion to and pay to the county treasurers of the various counties all fees
164 received for filing of nomination certificates or acceptances; and

165 (B) ensure that each county receives that proportion of the total amount paid to the
166 lieutenant governor from the congressional district that the total vote of that county for all
167 candidates for representative in Congress bears to the total vote of all counties within the
168 congressional district for all candidates for representative in Congress.

169 (d) (i) A person who is unable to pay the filing fee may file a declaration of candidacy
170 without payment of the filing fee upon a prima facie showing of impecuniosity as evidenced by
171 an affidavit of impecuniosity filed with the filing officer and, if requested by the filing officer,
172 a financial statement filed at the time the affidavit is submitted.

173 (ii) A person who is able to pay the filing fee may not claim impecuniosity.

174 (iii) (A) False statements made on an affidavit of impecuniosity or a financial
175 statement filed under this section shall be subject to the criminal penalties provided under
176 Sections 76-8-503 and 76-8-504 and any other applicable criminal provision.

177 (B) Conviction of a criminal offense under Subsection (5)(d)(iii)(A) shall be
178 considered an offense under this title for the purposes of assessing the penalties provided in
179 Subsection 20A-1-609(2).

180 (iv) The filing officer shall ensure that the affidavit of impecuniosity is printed in
181 substantially the following form:

182 "Affidavit of Impecuniosity

183 Individual Name
184 _____ Address _____

185 Phone Number _____

186 I, _____ (name), do solemnly [swear] [affirm], under penalty of law
187 for false statements, that, owing to my poverty, I am unable to pay the filing fee required by
188 law.

189 Date _____ Signature _____

190 Affiant

191 Subscribed and sworn to before me on _____ (month\day\year)

192 _____
193 (signature)

194 Name and Title of Officer Authorized to Administer Oath _____"

195 (v) The filing officer shall provide to a person who requests an affidavit of
196 impecuniosity a statement printed in substantially the following form, which may be included
197 on the affidavit of impecuniosity:

198 "Filing a false statement is a criminal offense. In accordance with Section 20A-1-609, a
199 candidate who is found guilty of filing a false statement, in addition to being subject to criminal
200 penalties, will be removed from the ballot."

201 (vi) The filing officer may request that a person who makes a claim of impecuniosity
202 under this Subsection (5)(d) file a financial statement on a form prepared by the election
203 official.

204 (6) If there is no legislative appropriation for the Western States Presidential Primary
205 election, as provided in Part 8, Western States Presidential Primary, a candidate for President
206 of the United States who is affiliated with a registered political party and chooses to participate
207 in the regular primary election shall:

208 (a) file a declaration of candidacy, in person or via a designated agent, with the
209 lieutenant governor:

210 (i) on a form developed and provided by the lieutenant governor; and

211 (ii) on or after the second Friday in March and before 5 p.m. on the third Thursday in
212 March before the next regular primary election;

213 (b) identify the registered political party whose nomination the candidate is seeking;

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

216 (d) pay the filing fee of \$500.

217 (7) Any person who fails to file a declaration of candidacy or certificate of nomination
218 within the time provided in this chapter is ineligible for nomination to office.

219 (8) A declaration of candidacy filed under this section may not be amended or
220 modified after the final date established for filing a declaration of candidacy.

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

222 **20A-9-202. Declarations of candidacy for regular general elections --**
223 **Requirements for candidates.**

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

226 (i) file a declaration of candidacy in person with the county clerk on or after the second
227 Friday in March and before 5 p.m. on the third Thursday in March before the next regular
228 general election; and

229 (ii) pay the filing fee.

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

232 (i) file a declaration of candidacy in person with either the lieutenant governor or the
233 county clerk in the candidate's county of residence on or after the second Friday in March and
234 before 5 p.m. on the third Thursday in March before the next regular general election; and

235 (ii) pay the filing fee.

236 (c) (i) Each county clerk who receives a declaration of candidacy from a candidate for
237 multicounty office shall transmit the filing fee and a copy of the candidate's declaration of
238 candidacy to the lieutenant governor within one working day after it is filed.

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

241 (d) Each person seeking to become a candidate for elective office for any federal office
242 or constitutional office, other than the office of lieutenant governor, that is to be filled at the
243 next regular general election shall:

244 (i) file a declaration of candidacy in person with the lieutenant governor on or after the

245 second Friday in March and before 5 p.m. on the third Thursday in March before the next
246 regular general election; and

247 (ii) pay the filing fee.

248 (e) Each person seeking the office of lieutenant governor, the office of district attorney,
249 or the office of President or Vice President of the United States shall comply with the specific
250 declaration of candidacy requirements established by this section.

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

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

257 (ii) pay the filing fee.

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

261 (3) (a) [~~Within five working days of nomination, each lieutenant governor candidate~~]
262 Each person seeking to become a candidate for office of lieutenant governor shall:

263 (i) file a declaration of candidacy with the lieutenant governor on or after the second
264 Friday in March and before the Friday immediately before the convention at which the
265 lieutenant governor candidate is nominated; and

266 (ii) pay the filing fee.

267 (b) (i) Any candidate for lieutenant governor who fails to file [~~within five working~~
268 ~~days~~] as provided in Subsection (3)(a) is disqualified.

269 (ii) If a lieutenant governor is disqualified, another candidate shall be nominated to
270 replace the disqualified candidate as provided in Section 20A-1-501.

271 (4) Each registered political party shall:

272 (a) certify the names of its candidates for President and Vice President of the United
273 States to the lieutenant governor no later than August 31; or

274 (b) provide written authorization for the lieutenant governor to accept the certification
275 of candidates for President and Vice President of the United States from the national office of

276 the registered political party.

277 (5) (a) A declaration of candidacy filed under this section is valid unless a written
278 objection is filed with the clerk or lieutenant governor within five days after the last day for
279 filing.

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

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

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

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

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

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

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

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

Legislative Review Note
as of 11-15-12 6:39 AM

Office of Legislative Research and General Counsel