

ELECTION LAW AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Daniel McCay

Senate Sponsor: _____

LONG TITLE

Committee Note:

The Government Operations Interim Committee recommended this bill.

General Description:

This bill amends provisions relating to election law.

Highlighted Provisions:

This bill:

- ▶ removes a political party's ability to replace a candidate who is disqualified for to file a financial disclosure; and
 - ▶ establishes a deadline by which an individual who wishes to become a candidate for school board shall submit a declaration of candidacy.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

- 20A-1-501**, as last amended by Laws of Utah 2014, Chapter 17
20A-11-206, as last amended by Laws of Utah 2015, Chapter 204
20A-11-305, as last amended by Laws of Utah 2015, Chapter 204
20A-14-203, as enacted by Laws of Utah 1995, Chapter 1



28

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

30 Section 1. Section **20A-1-501** is amended to read:

31 **20A-1-501. Candidate vacancies -- Procedure for filling.**

32 (1) The state central committee of a political party, for candidates for United States
33 senator, United States representative, governor, lieutenant governor, attorney general, state
34 treasurer, and state auditor, and for legislative candidates whose legislative districts encompass
35 more than one county, and the county central committee of a political party, for all other party
36 candidates seeking an office elected at a regular general election, may certify the name of
37 another candidate to the appropriate election officer if:

38 (a) for a registered political party that will have a candidate on a ballot in a primary
39 election, after the close of the period for filing a declaration of candidacy and continuing
40 through the day before the day on which the lieutenant governor provides the list described in
41 Subsection **20A-9-403**(4)(a):

42 (i) only one or two candidates from that party have filed a declaration of candidacy for
43 that office; and

44 (ii) one or both:

45 (A) dies;

46 (B) resigns because of acquiring a physical or mental disability, certified by a
47 physician, that prevents the candidate from continuing the candidacy; or

48 (C) is disqualified by an election officer for improper filing or nominating procedures;

49 (b) for a registered political party that does not have a candidate on the ballot in a
50 primary, but that will have a candidate on the ballot for a general election, after the close of the
51 period for filing a declaration of candidacy and continuing through the day before the day on
52 which the lieutenant governor makes the certification described in Section **20A-5-409**, the
53 party's candidate:

54 (i) dies;

55 (ii) resigns because of acquiring a physical or mental disability as certified by a
56 physician;

57 (iii) is disqualified by an election officer for improper filing or nominating procedures;
58 or

59 (iv) resigns to become a candidate for president or vice president of the United States;

60 or

61 (c) for a registered political party with a candidate certified as winning a primary
62 election, after the deadline described in Subsection (1)(a) and continuing through the day
63 before that day on which the lieutenant governor makes the certification described in Section
64 20A-5-409, the party's candidate:

65 (i) dies;

66 (ii) resigns because of acquiring a physical or mental disability as certified by a
67 physician;

68 (iii) is disqualified by an election officer for improper filing or nominating procedures;

69 or

70 (iv) resigns to become a candidate for president or vice president of the United States.

71 (2) If no more than two candidates from a political party have filed a declaration of
72 candidacy for an office elected at a regular general election and one resigns to become the party
73 candidate for another position, the state central committee of that political party, for candidates
74 for governor, lieutenant governor, attorney general, state treasurer, and state auditor, and for
75 legislative candidates whose legislative districts encompass more than one county, and the
76 county central committee of that political party, for all other party candidates, may certify the
77 name of another candidate to the appropriate election officer.

78 (3) Each replacement candidate shall file a declaration of candidacy as required by
79 Title 20A, Chapter 9, Part 2, Candidate Qualifications and Declarations of Candidacy.

80 (4) (a) The name of a candidate who is certified under Subsection (1)(a) after the
81 deadline described in Subsection (1)(a) may not appear on the primary election ballot.

82 (b) The name of a candidate who is certified under Subsection (1)(b) after the deadline
83 described in Subsection (1)(b) may not appear on the general election ballot.

84 (c) The name of a candidate who is certified under Subsection (1)(c) after the deadline
85 described in Subsection (1)(c) may not appear on the general election ballot.

86 (5) A political party may not replace a candidate who is disqualified for failure to
87 timely file a campaign disclosure financial report under Title 20A, Chapter 11, Campaign and
88 Financial Reporting Requirements, or Section 17-16-6.5.

89 Section 2. Section 20A-11-206 is amended to read:

90 **20A-11-206. State office candidate -- Failure to file reports -- Penalties.**

91 (1) (a) A state office candidate who fails to file a financial statement by the deadline is
92 subject to a fine imposed in accordance with Section **20A-11-1005**.

93 (b) If a state office candidate fails to file an interim report described in Subsections
94 **20A-11-204**(1)(b)(ii) through (iv), the lieutenant governor shall, after making a reasonable
95 attempt to discover if the report was timely filed, inform the county clerk and other appropriate
96 election officials that the state office candidate is disqualified.

97 [(e) (i) ~~The vacancy on the ballot resulting from the disqualification may be filled as~~
98 ~~provided in Section **20A-1-501**.~~]

99 [(ii)] (c) (i) If a state office candidate is disqualified under Subsection (1)[(a)](b), the
100 election official shall:

101 (A) remove the candidate's name from the ballot; or

102 (B) if removing the candidate's name from the ballot is not practicable, inform the
103 voters by any practicable method that the candidate has been disqualified and that votes cast for
104 the candidate will not be counted.

105 [(iii)] (ii) An election official may fulfill the requirement described in Subsection
106 (1)(c)[(ii)](i)(B) in relation to an absentee voter, including a military or overseas absentee
107 voter, by including with the absentee ballot a written notice directing the voter to a public
108 website that will inform the voter whether a candidate on the ballot is disqualified.

109 (d) Notwithstanding [Subsections (1)(b) and (1)(c)] Subsection (1)(b), a state office
110 candidate is not disqualified if:

111 (i) the candidate timely files the reports required by this section no later than the due
112 date in accordance with Section **20A-11-103**;

113 (ii) the reports are completed, detailing accurately and completely the information
114 required by this part except for inadvertent omissions or insignificant errors or inaccuracies;
115 and

116 (iii) the omissions, errors, or inaccuracies described in Subsection (1)(d)(ii) are
117 corrected in:

118 (A) an amended report; or

119 (B) the next scheduled report.

120 (2) (a) Within 30 days after a deadline for the filing of a summary report, the lieutenant

121 governor shall review each filed summary report to ensure that:

122 (i) each state office candidate that is required to file a summary report has filed one;

123 and

124 (ii) each summary report contains the information required by this part.

125 (b) If it appears that any state office candidate has failed to file the summary report
126 required by law, if it appears that a filed summary report does not conform to the law, or if the
127 lieutenant governor has received a written complaint alleging a violation of the law or the
128 falsity of any summary report, the lieutenant governor shall, within five days of discovery of a
129 violation or receipt of a written complaint, notify the state office candidate of the violation or
130 written complaint and direct the state office candidate to file a summary report correcting the
131 problem.

132 (c) (i) It is unlawful for any state office candidate to fail to file or amend a summary
133 report within seven days after receiving notice from the lieutenant governor under this section.

134 (ii) Each state office candidate who violates Subsection (2)(c)(i) is guilty of a class B
135 misdemeanor.

136 (iii) The lieutenant governor shall report all violations of Subsection (2)(c)(i) to the
137 attorney general.

138 (iv) In addition to the criminal penalty described in Subsection (2)(c)(ii), the lieutenant
139 governor shall impose a civil fine of \$100 against a state office candidate who violates
140 Subsection (2)(c)(i).

141 Section 3. Section **20A-11-305** is amended to read:

20A-11-305. Legislative office candidate -- Failure to file report -- Penalties.

142 (1) (a) A legislative office candidate who fails to file a financial statement by the
143 deadline is subject to a fine imposed in accordance with Section **20A-11-1005**.

144 (b) If a legislative office candidate fails to file an interim report described in
145 Subsections **20A-11-303**(1)(b)(ii) through (iv), the lieutenant governor shall, after making a
146 reasonable attempt to discover if the report was timely filed, inform the county clerk and other
147 appropriate election officials that the legislative office candidate is disqualified.

148 ~~[(c) (i) The vacancy on the ballot resulting from the disqualification may be filled as
149 provided in Section **20A-1-501**.]~~

150 [~~(ii)~~] (c) If a legislative office candidate is disqualified under Subsection (1)~~[(a)]~~(b), the

152 election officer shall:

153 [A] (i) remove the candidate's name from the ballot; or

154 [B] (ii) if removing the candidate's name from the ballot is not practicable, inform the
155 voters by any practicable method that the candidate has been disqualified and that votes cast for
156 the candidate will not be counted.

157 (d) Notwithstanding [Subsections (1)(b) and (1)(c)] Subsection (1)(b), a legislative
158 office candidate is not disqualified if:

159 (i) the candidate timely files the reports required by this section no later than the due
160 date in accordance with Section 20A-11-103;

161 (ii) the reports are completed, detailing accurately and completely the information
162 required by this part except for inadvertent omissions or insignificant errors or inaccuracies;
163 and

164 (iii) the omissions, errors, or inaccuracies described in Subsection (1)(d)(ii) are
165 corrected in:

166 (A) an amended report; or

167 (B) the next scheduled report.

168 (2) (a) Within 30 days after a deadline for the filing of a summary report, the lieutenant
169 governor shall review each filed summary report to ensure that:

170 (i) each legislative office candidate that is required to file a summary report has filed
171 one; and

172 (ii) each summary report contains the information required by this part.

173 (b) If it appears that any legislative office candidate has failed to file the summary
174 report required by law, if it appears that a filed summary report does not conform to the law, or
175 if the lieutenant governor has received a written complaint alleging a violation of the law or the
176 falsity of any summary report, the lieutenant governor shall, within five days of discovery of a
177 violation or receipt of a written complaint, notify the legislative office candidate of the
178 violation or written complaint and direct the legislative office candidate to file a summary
179 report correcting the problem.

180 (c) (i) It is unlawful for any legislative office candidate to fail to file or amend a
181 summary report within seven days after receiving notice from the lieutenant governor under
182 this section.

183 (ii) Each legislative office candidate who violates Subsection (2)(c)(i) is guilty of a
184 class B misdemeanor.

185 (iii) The lieutenant governor shall report all violations of Subsection (2)(c)(i) to the
186 attorney general.

187 (iv) In addition to the criminal penalty described in Subsection (2)(c)(ii), the lieutenant
188 governor shall impose a civil fine of \$100 against a legislative office candidate who violates
189 Subsection (2)(c)(i).

190 Section 4. Section **20A-14-203** is amended to read:

191 **20A-14-203. Becoming a member of a local board of education -- Declaration of
192 candidacy -- Election.**

193 (1) An individual may become a candidate for a local school board:

194 (a) (i) in the 2016 general election, by filing a declaration of candidacy with the county
195 clerk [and], in accordance with Section **20A-9-202**, before 5 p.m. on March 17, 2016; or

196 (ii) in a general election held after 2016, by filing a declaration of candidacy with the
197 county clerk on or after the second Friday in March, and before 5 p.m. on the third Thursday in
198 March, before the next regular general election; and

199 (b) by paying the fee as required by Section 20A-9-202.

200 (2) (a) The term of office for an individual elected to a local board of education is four
201 years, beginning on the first Monday in January after the election.

202 (b) A member of a local board of education shall serve until a successor is elected or
203 appointed and qualified.

204 (c) A member of a local board of education is "qualified" when the member takes or
205 signs the constitutional oath of office.

206 Section 5. **Effective date.**

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