

1 **AMENDMENTS TO STATE SCHOOL BOARD ELECTION**

2 **PROCESS**

3 2015 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Kraig Powell**

6 Senate Sponsor: _____

7

8 **LONG TITLE**

9 **General Description:**

10 This bill amends provisions relating to the election of a member of the State School
11 Board.

12 **Highlighted Provisions:**

13 This bill:

14 ▶ repeals the nominating committee process for selecting candidates for the office of
15 State Board of Education member;

16 ▶ provides that an individual may not be a candidate for the office of State Board of
17 Education member unless the individual is a member of a local school board or a
18 charter school board on the day on which the individual files the declaration of
19 candidacy;

20 ▶ establishes procedures for nonpartisan elections for the office of State Board of
21 Education member; and

22 ▶ makes technical and conforming changes.

23 **Money Appropriated in this Bill:**

24 None

25 **Other Special Clauses:**

26 None

27 **Utah Code Sections Affected:**



28 AMENDS:

29 **20A-9-201**, as last amended by Laws of Utah 2014, Chapter 17

30 **20A-14-101.1**, as last amended by Laws of Utah 2013, Chapter 455

31 **20A-14-103**, as last amended by Laws of Utah 2011, Third Special Session, Chapter 3

32 **20A-14-105**, as last amended by Laws of Utah 2011, Chapters 292, 327, 335 and last
33 amended by Coordination Clause, Laws of Utah 2011, Chapter 327

34 **53A-1-101**, as last amended by Laws of Utah 2010, Chapter 162

35 REPEALS:

36 **20A-14-104**, as last amended by Laws of Utah 2004, Chapter 19



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

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

40 **20A-9-201. Declarations of candidacy -- Candidacy for more than one office or of**
41 **more than one political party prohibited with exceptions -- General filing and form**
42 **requirements -- Affidavit of impecuniosity.**

43 (1) Before filing a declaration of candidacy for election to any office, [~~a person~~] the
44 individual shall:

45 (a) be a United States citizen;

46 (b) meet the legal requirements of that office; and

47 (c) if seeking a registered political party's nomination as a candidate for elective office,
48 designate that registered political party as their preferred party affiliation on their declaration of
49 candidacy.

50 (2) (a) Except as provided in Subsection (2)(b), [~~a person~~] an individual may not:

51 (i) file a declaration of candidacy for, or be a candidate for, more than one office in
52 Utah during any election year; or

53 (ii) appear on the ballot as the candidate of more than one political party.

54 (b) (i) [~~A person~~] An individual may file a declaration of candidacy for, or be a
55 candidate for, president or vice president of the United States and another office, if the [~~person~~]
56 individual resigns the person's candidacy for the other office after the [~~person~~] individual is
57 officially nominated for president or vice president of the United States.

58 (ii) [~~A person~~] An individual may file a declaration of candidacy for, or be a candidate

59 for, more than one justice court judge office.

60 (iii) ~~[A person]~~ An individual may file a declaration of candidacy for lieutenant
61 governor even if the ~~[person]~~ individual filed a declaration of candidacy for another office in
62 the same election year if the ~~[person]~~ individual withdraws as a candidate for the other office in
63 accordance with Subsection 20A-9-202(6) before filing the declaration of candidacy for
64 lieutenant governor.

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

67 (A) read to the prospective candidate the constitutional and statutory qualification
68 requirements for the office that the candidate is seeking; and

69 (B) require the candidate to state whether ~~[or not]~~ the candidate meets those
70 requirements.

71 (ii) Before accepting a declaration of candidacy for the office of county attorney, the
72 county clerk shall ensure that the ~~[person]~~ individual filing that declaration of candidacy is:

73 (A) a United States citizen;

74 (B) an attorney licensed to practice law in Utah who is an active member in good
75 standing of the Utah State Bar;

76 (C) a registered voter in the county in which the ~~[person]~~ individual is seeking office;
77 and

78 (D) a current resident of the county in which the ~~[person]~~ individual is seeking office
79 and either has been a resident of that county for at least one year or was appointed and is
80 currently serving as county attorney and became a resident of the county within 30 days after
81 appointment to the office.

82 (iii) Before accepting a declaration of candidacy for the office of district attorney, the
83 county clerk shall ensure that, as of the date of the election, the ~~[person]~~ individual filing that
84 declaration of candidacy is:

85 (A) a United States citizen;

86 (B) an attorney licensed to practice law in Utah who is an active member in good
87 standing of the Utah State Bar;

88 (C) a registered voter in the prosecution district in which the ~~[person]~~ individual is
89 seeking office; and

90 (D) a current resident of the prosecution district in which the [person] individual is
91 seeking office and either will have been a resident of that prosecution district for at least one
92 year as of the date of the election or was appointed and is currently serving as district attorney
93 and became a resident of the prosecution district within 30 days after receiving appointment to
94 the office.

95 (iv) Before accepting a declaration of candidacy for the office of county sheriff, the
96 county clerk shall ensure that the [person] individual filing the declaration of candidacy:

97 (A) as of the date of filing:

98 (I) is a United States citizen;

99 (II) is a registered voter in the county in which the [person] individual seeks office;

100 (III) (Aa) has successfully met the standards and training requirements established for
101 law enforcement officers under Title 53, Chapter 6, Part 2, Peace Officer Training and
102 Certification Act; or

103 (Bb) has met the waiver requirements in Section 53-6-206; and

104 (IV) is qualified to be certified as a law enforcement officer, as defined in Section
105 53-13-103; and

106 (B) as of the date of the election, shall have been a resident of the county in which the
107 [person] individual seeks office for at least one year.

108 (v) Before accepting a declaration of candidacy for the office of governor, lieutenant
109 governor, state auditor, state treasurer, attorney general, or state legislator, [~~or State Board of~~
110 ~~Education member,~~] the filing officer shall ensure:

111 (A) that the [person] individual filing the declaration of candidacy also files the
112 financial disclosure required by Section 20A-11-1603; and

113 (B) if the filing officer is not the lieutenant governor, that the financial disclosure is
114 provided to the lieutenant governor according to the procedures and requirements of Section
115 20A-11-1603.

116 (vi) Before accepting a declaration of candidacy for the office of State Board of
117 Education member, the filing officer shall ensure:

118 (A) that the individual filing the declaration of candidacy also files the financial
119 disclosure form required by Section 20A-11-1603;

120 (B) that the individual filing the declaration of candidacy is currently a member of a

121 local school board or a charter school board; and

122 (C) if the filing officer is not the lieutenant governor, that the financial disclosure is
123 provided to the lieutenant governor according to the procedures and requirements of Section
124 20A-11-1603.

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

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

130 (i) inform the candidate that:

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

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

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

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

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

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

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

144 (iii) provide the candidate with a copy of Section 20A-7-801 regarding the Statewide
145 Electronic Voter Information Website Program and inform the candidate of the submission
146 deadline under Subsection 20A-7-801(4)(a);

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

149 (A) signing the pledge is voluntary; and

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

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

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

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

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

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

161 (4) (a) Except for presidential candidates, the form of the declaration of candidacy shall
162 be substantially as follows:

163 "State of Utah, County of _____

164 I, _____, declare my candidacy for the office of _____, seeking the
165 nomination of the _____ party, which is my preferred political party affiliation. I do
166 solemnly swear that: I will meet the qualifications to hold the office, both legally and
167 constitutionally, if selected; I reside at _____ in the City or Town of _____,
168 Utah, Zip Code _____ Phone No. _____; I will not knowingly violate any law governing
169 campaigns and elections; I will file all campaign financial disclosure reports as required
170 by law; and I understand that failure to do so will result in my disqualification as a
171 candidate for this office and removal of my name from the ballot. The mailing address
172 that I designate for receiving official election notices is
173 _____.

174 _____

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

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

177 (b) An agent designated to file a declaration of candidacy under Section [20A-9-202](#)
178 may not sign the form described in Subsection (4)(a).

179 (5) (a) Except for presidential candidates, the fee for filing a declaration of candidacy
180 is:

181 (i) \$50 for candidates for the local school district board; and

182 (ii) \$50 plus 1/8 of 1% of the total salary for the full term of office legally paid to the

183 [~~person~~] individual holding the office for all other federal, state, and county offices.

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

186 (i) who is disqualified; or

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

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

190 (ii) The lieutenant governor shall:

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

193 (B) ensure that each county receives that proportion of the total amount paid to the
194 lieutenant governor from the congressional district that the total vote of that county for all
195 candidates for representative in Congress bears to the total vote of all counties within the
196 congressional district for all candidates for representative in Congress.

197 (d) (i) [~~A person~~] An individual who is unable to pay the filing fee may file a
198 declaration of candidacy without payment of the filing fee upon a prima facie showing of
199 impecuniosity as evidenced by an affidavit of impecuniosity filed with the filing officer and, if
200 requested by the filing officer, a financial statement filed at the time the affidavit is submitted.

201 (ii) [~~A person~~] An individual who is able to pay the filing fee may not claim
202 impecuniosity.

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

206 (B) Conviction of a criminal offense under Subsection (5)(d)(iii)(A) [~~shall be~~] is
207 considered an offense under this title for the purposes of assessing the penalties provided in
208 Subsection 20A-1-609(2).

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

211 "Affidavit of Impecuniosity

212 Individual Name

213 _____ Address _____

214 Phone Number _____

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

218 Date _____ Signature _____

219 Affiant

220 Subscribed and sworn to before me on _____ (month/day/year)

221 _____
222 (signature)

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

224 (v) The filing officer shall provide to [~~a person~~] an individual who requests an affidavit
225 of impecuniosity a statement printed in substantially the following form, which may be
226 included on the affidavit of impecuniosity:

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

230 (vi) The filing officer may request that [~~a person~~] an individual who makes a claim of
231 impecuniosity under this Subsection (5)(d) file a financial statement on a form prepared by the
232 election official.

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

237 (i) file a declaration of candidacy, in person or via a designated agent, with the
238 lieutenant governor:

239 (A) on a form developed and provided by the lieutenant governor; and

240 (B) on or after the second Friday in March and before 5 p.m. on the third Thursday in
241 March before the next regular primary election;

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

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

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

246 (b) An agent designated to file a declaration of candidacy may not sign the form
247 described in Subsection (6)(a)(i)(A).

248 (7) ~~[Any person]~~ An individual who fails to file a declaration of candidacy or
249 certificate of nomination within the time provided in this chapter is ineligible for nomination to
250 office.

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

253 Section 2. Section **20A-14-101.1** is amended to read:

254 **CHAPTER 14. ELECTION OF STATE AND LOCAL SCHOOL BOARDS**

255 **20A-14-101.1. Title -- Definitions.**

256 (1) This chapter is known as "Election of State and Local School Boards."

257 (2) As used in this part:

258 ~~[(1)]~~ (a) "Board" means the State Board of Education.

259 ~~[(2)]~~ (b) "Board block assignment file" means the electronic file that assigns each of
260 Utah's 115, 406 census blocks to a particular State Board of Education district.

261 ~~[(3)]~~ (c) "Board shapefile" means the electronic shapefile that stores the boundary of
262 each of the 15 State Board of Education districts.

263 ~~[(4)]~~ (d) "Census block" means any one of the 115, 406 individual geographic areas
264 into which the Bureau of the Census of the United States Department of Commerce has divided
265 the state of Utah, to each of which the Bureau of the Census has attached a discrete population
266 tabulation from the 2010 decennial census.

267 ~~[(5)]~~ (e) "Shapefile" means the digital vector storage format for storing geometric
268 location and associated attribute information.

269 Section 3. Section **20A-14-103** is amended to read:

270 **20A-14-103. State Board of Education members -- When elected -- Qualifications**
271 **-- Avoiding conflicts of interest.**

272 (1) (a) Unless otherwise provided by law, each State Board of Education member
273 elected from a State Board of Education District at the 2010 general election shall:

274 (i) serve out the term of office for which that member was elected; and

275 (ii) represent the realigned district if the member resides in that district.

276 (b) At the general election to be held in 2012, a State Board of Education member
277 elected from State Board of Education Districts 4, 7, 8, 10, 11, 12, 13, and 15 shall be elected
278 to serve a term of office of four years.

279 (c) In order to ensure that the terms of approximately half of the State Board of
280 Education members expire every two years:

281 (i) at the general election to be held in 2012, the State Board of Education member
282 elected from State Board of Education District 1 shall be elected to serve a term of office of
283 two years; and

284 (ii) at the general election to be held in 2014, the State Board of Education member
285 elected from State Board of Education District 1 shall be elected to serve a term of office of
286 four years.

287 (2) (a) ~~[A person]~~ An individual seeking election to the State Board of Education shall:

288 (i) have been a resident of the State Board of Education district in which the ~~[person]~~
289 individual is seeking election for at least one year as of the date of the election~~[-];~~ and

290 (ii) be a member of a local school board or a charter school board on the day on which
291 the individual files a declaration of candidacy for the office.

292 (b) A person who has resided within the State Board of Education district, as the
293 boundaries of the district exist on the date of the election, for one year immediately preceding
294 the date of the election shall be considered to have met the requirements of this Subsection (2).

295 (3) A State Board of Education member shall:

296 (a) be and remain a registered voter in the State Board of Education district from which
297 the member was elected or appointed; and

298 (b) maintain the member's primary residence within the State Board of Education
299 district from which the member was elected or appointed during the member's term of office.

300 (4) A State Board of Education member may not, during the member's term of office,
301 also serve as an employee of:

302 (a) the State Board of Education;

303 (b) the Utah State Office of Education; or

304 (c) the Utah State Office of Rehabilitation.

305 (5) The office of State Board of Education member is a nonpartisan office.

306 Section 4. Section **20A-14-105** is amended to read:

307 **20A-14-105. Election of candidates for membership on the State Board of**
308 **Education -- Selection of candidates by the governor -- Ballot placement.**

309 ~~[(1) By August 1 of each regular general election year, the governor shall:]~~

310 ~~[(a) for each state board district subject to election in that year, select two candidates~~
311 ~~for the State Board of Education from the lists submitted by the state board district nominating~~
312 ~~and recruiting committee; and]~~

313 ~~[(b) certify the names of the two candidates from each school board district to the~~
314 ~~lieutenant governor.]~~

315 ~~[(2) If the governor fails to select two candidates for a state board district by August 1,~~
316 ~~the nominating and recruiting committee shall:]~~

317 ~~[(a) select the two candidates; and]~~

318 ~~[(b) notify the lieutenant governor of its selections by August 31:]~~

319 ~~[(3) In accordance with Section [20A-6-305](#), the]~~

320 (1) If more than two individuals file a declaration of candidacy for the same State
321 Board of Education district, the lieutenant governor shall certify the name of each individual to
322 the county clerks for placement on the nonpartisan section of the primary election ballot.

323 (2) If only two individuals file a declaration of candidacy for the same State Board of
324 Education district, the lieutenant governor shall certify the name of each individual to the
325 county clerks for placement on the nonpartisan section of the general election ballot.

326 (3) If only one individual files a declaration of candidacy for a State Board of
327 Education district, the lieutenant governor shall certify the name of the individual to the county
328 clerks for placement on the nonpartisan section of the general election ballot.

329 (4) The lieutenant governor shall certify the names and order of the names of
330 candidates for the office of State Board of Education member to the county clerks for
331 placement on the nonpartisan section of the ballot in accordance with Section [20A-6-305](#).

332 Section 5. Section **53A-1-101** is amended to read:

333 **53A-1-101. State Board of Education -- Members.**

334 (1) Members of the State Board of Education shall be ~~[nominated and]~~ elected as
335 provided in Title 20A, Chapter 14, ~~[Nomination and]~~ Election of State and Local School
336 Boards.

337 (2) (a) In addition to the members ~~[designated under]~~ described in Subsection (1), the

338 following members shall serve as nonvoting members of the State Board of Education:

339 (i) two members of the State Board of Regents, appointed by the chair of the State
340 Board of Regents;

341 (ii) one member of the Utah College of Applied Technology Board of Trustees,
342 appointed by the chair of the board of trustees; and

343 (iii) one member of the State Charter School Board, appointed by the chair of the State
344 Charter School Board.

345 (b) A nonvoting member shall continue to serve as a member without a set term until
346 the member is replaced by the chair of the State Board of Regents, chair of the Utah College of
347 Applied Technology Board of Trustees, or chair of the State Charter School Board, as
348 applicable.

349 Section 6. **Repealer.**

350 This bill repeals:

351 Section **20A-14-104, Becoming a candidate for membership on the State Board of**
352 **Education -- Nominating and recruiting committee -- Membership -- Procedure -- Duties.**

Legislative Review Note
as of 1-26-15 2:16 PM

Office of Legislative Research and General Counsel