

HOUSE BILL NO. HB0040

Election Code revisions.

Sponsored by: Joint Corporations, Elections & Political
Subdivisions Interim Committee

A BILL

for

1 AN ACT relating to elections; defining candidates subject
2 to the provisions of the Election Code; revising provisions
3 relating to nominating petition signatures and write-in
4 candidates; providing procedures for a write-in candidate
5 to decline election to public office; clarifying provisions
6 relating to vacancies in certain public offices; modifying
7 provisions concerning the distance from a polling place in
8 which electioneering is prohibited; repealing provisions
9 relating to write-in candidates and payments to referendum
10 circulators; making conforming amendments; and providing
11 for an effective date.

12

13 *Be It Enacted by the Legislature of the State of Wyoming:*

14

1 **Section 1.** W.S. 22-1-102(a) by creating a new
2 paragraph (liii), 22-5-305(c) and (d),
3 22-16-103(c) (viii) (C) (II) and (E) (II), 22-16-106(a), (b)
4 and by creating a new subsection (d), 22-18-111(a) (i),
5 (ii), (iii) (A), (C), (vi), (b) and (c) and 22-26-113 are
6 amended to read:

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8 **22-1-102. Definitions.**

9

10 (a) The definitions contained in this chapter apply
11 to words and phrases used in this Election Code and govern
12 the construction of those words and phrases unless they are
13 specifically modified by the context in which they appear.
14 As used in this Election Code:

15

16 (liii) "Candidate" means any person who
17 knowingly seeks nomination or election to public office by:

18

19 (A) Filing an application for nomination by
20 primary election, nomination by political party convention
21 or by petition for nomination;

22

1 (B) Write-in, except that this subparagraph
 2 shall not apply to a person elected to public office by
 3 write-in at a general or special election who did not seek
 4 or campaign for election to the office;

5
 6 (C) Forming a campaign committee; or

7
 8 (D) Receiving contributions or making
 9 expenditures, or giving consent for any individual to
 10 receive contributions or make expenditures, in order to
 11 secure nomination or election to public office.

12
 13 **22-5-305. When petitions may be circulated; use of**
 14 **copies; requirements.**

15
 16 (c) An elector signing a petition must also print on
 17 the petition: ~~his~~

18
 19 (i) Their first and last name;

20
 21 (ii) The date of signing the petition; and ~~his~~

22
 23 (iii) Their residence address.

1

2 (d) The ~~name of one (1) voter~~ signature of an elector
3 who has signed ~~to more than one (1) petition for nomination~~
4 ~~to the same office shall not be counted on more than one~~
5 ~~(1) petition~~ a petition in accordance with this section
6 shall only count once toward the number of signatures
7 required under W.S. 22-5-304.

8

9 **22-16-103. County canvass procedures.**

10

11 (c) The county canvassing board shall:

12

13 (viii) Ensure abstracts contain the following
14 information:

15

16 (C) The full name of each of the following
17 receiving votes:

18

19 (II) ~~Valid~~ Write-in candidates, if the
20 candidate received a sufficient number of votes; and

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22 (E) The number of votes cast for each of
23 the following receiving votes:

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22-16-106. Write-in candidates.

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(II) ~~Valid~~ Write-in candidates, if the candidate received a sufficient number of votes;

(a) Each write-in candidate nominated at a primary election, who has not previously filed an application, ~~accepts~~ for nomination shall accept nomination by filing an application for nomination and paying the filing fee, in the office in which he would have been required to file an application for nomination to that office.

(b) The chief election officer shall notify a write-in candidate who has been nominated ~~for~~ at a primary election within forty-eight (48) hours after the canvassing board meets. Notification may be made by United States postal service, any generally accepted business document delivery method evidenced by receipt of delivery or attempted delivery at the last known address of the write-in candidate or service as provided under the Wyoming Rules of Civil Procedure. Each notification provided under this section shall inform the write-in candidate that

1 failure to timely respond will result in forfeiture of
2 nomination. Failure of the successful write-in candidate
3 to accept the nomination in the manner prescribed in
4 subsection (a) of this section within five (5) days after
5 delivery, attempted delivery or service under the Wyoming
6 Rules of Civil Procedure, as computed pursuant to W.S.
7 22-2-110, results in the successful write-in candidate not
8 appearing on the general election ballot, but does not
9 result in a vacancy which can be filled.

10
11 (d) A write-in candidate elected to public office at
12 a general or special election may decline election before
13 taking the oath of office by filing written notice with the
14 county clerk where the candidate resides and the secretary
15 of state. Notice provided under this subsection shall
16 immediately create a vacancy in the office which shall be
17 filled in the manner prescribed in W.S. 22-18-101 through
18 22-18-112.

19
20 **22-18-111. Vacancies in other offices; temporary**
21 **appointments.**

22

1 (a) Any vacancy in any other elective office in the
2 state except representative in congress or the board of
3 trustees of a school or community college district, shall
4 be filled by the governing body, or as otherwise provided
5 in this section, by appointment of a temporary successor.
6 The person appointed shall serve until a successor for the
7 remainder of the unexpired term is elected at the next
8 general election and takes office on the first Monday of
9 the following January. Provided, if a vacancy in a four
10 (4) year term of office occurs in the term's second or
11 subsequent years after the first day for filing an
12 application for nomination pursuant to W.S. 22-5-209, no
13 election to fill the vacancy shall be held and the
14 temporary successor appointed shall serve the remainder of
15 the unexpired term. The following apply:

16

17 (i) If a vacancy occurs in the office of United
18 States senator or in any state office other than the
19 governor, member of the state legislature, the office of
20 justice of the supreme court and the office of district
21 court judge, the governor shall immediately notify in
22 writing the chairman of the state central committee of the
23 political party which the last incumbent represented at the

1 time of his election under W.S. 22-6-120(a)(vii), or at the
2 time of his appointment if not elected to office. The
3 chairman shall call a meeting of the state central
4 committee to be held not later than fifteen (15) days after
5 he receives notice of the vacancy. At the meeting the
6 state central committee shall select and transmit to the
7 governor the names of three (3) persons qualified to ~~fill~~
8 ~~the vacancy~~ hold the office. Within five (5) days after
9 receiving these three (3) names, the governor shall fill
10 the vacancy by temporary appointment of one (1) of the
11 three (3) to hold the office. If the incumbent who has
12 vacated office did not represent a political party at the
13 time of his election, or at the time of his appointment if
14 not elected to office, the governor shall notify in writing
15 the chairman of all state central committees of parties
16 registered with the secretary of state. The state central
17 committees shall submit to the governor, within fifteen
18 (15) days after notice of the vacancy, the name of one (1)
19 person qualified to ~~fill the vacancy~~ hold the office. The
20 governor shall also cause to be published in a newspaper of
21 general circulation in the state notice of the vacancy in
22 office. ~~Qualified~~ Persons qualified to hold the office who
23 do not belong to a party may, within fifteen (15) days

1 after publication of the vacancy in office, submit a
2 petition signed by one hundred (100) registered voters,
3 seeking consideration for appointment to the office.
4 Within five (5) days after receiving the names of ~~qualified~~
5 persons qualified to hold the office, the governor shall
6 fill the vacancy by temporary appointment to the office,
7 from the names submitted or from those petitioning for
8 appointment;

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10 (ii) If a vacancy occurs in a county elective
11 office, except as provided in W.S. 18-3-524, the board of
12 county commissioners of the county in which the vacancy
13 occurs shall immediately notify in writing the chairman of
14 the county central committee of the political party which
15 the last incumbent represented at the time of his election
16 under W.S. 22-6-120(a)(vii), or at the time of his
17 appointment if not elected to office. The chairman shall
18 call a meeting of the county central committee to be held
19 not later than fifteen (15) days after he receives notice
20 of the vacancy. At the meeting the county central
21 committee shall select and transmit to the board of county
22 commissioners the names of three (3) persons qualified to
23 ~~fill the vacancy~~ hold the office. Within five (5) days

1 after receiving these three (3) names, the board of county
2 commissioners shall fill the vacancy by appointment of one
3 (1) of the three (3) to hold the office. If the incumbent
4 who has vacated office did not represent a political party
5 at the time of his election, or at the time of his
6 appointment if not elected to office, the county
7 commissioners shall publish in a newspaper of general
8 circulation in the county, notice that within fifteen (15)
9 days after publication any ~~qualified~~ person qualified to
10 hold the office may make application directly to the county
11 commissioners for appointment to fill the vacancy. Within
12 twenty (20) days after the publication of the vacancy in
13 office the county commissioners shall fill the vacancy by
14 appointment of one (1) person qualified to hold the office
15 from those submitting applications;

16

17 (iii) If a vacancy occurs in the office of a
18 member of the state legislature:

19

20 (A) For vacancies other than resignations,
21 the board of county commissioners of the county or counties
22 in which the vacancy occurs shall immediately notify in
23 writing the chairman of the state central committee of the

1 political party which the former incumbent represented at
2 the time of his election under W.S. 22-6-120(a)(vii), or at
3 the time of his appointment if not elected to office. For
4 resignations, the governor shall notify the appropriate
5 state central committee or the appropriate board of county
6 commissioners in accordance with W.S. 28-1-106. For all
7 vacancies in which the incumbent represented a political
8 party at the time of his election or appointment to the
9 office, the state central committee of the political party
10 of the former incumbent shall notify the precinct
11 committeemen and committeewomen for that party for each
12 precinct within the legislative district which is vacant
13 and arrange a meeting of those precinct committeemen and
14 committeewomen at which they will select a list of three
15 (3) persons qualified to hold the office to fill the
16 vacancy. Only those persons serving as committeemen and
17 committeewomen at least thirty (30) days prior to the
18 vacancy, or if the vacancy occurs within thirty (30) days
19 after the first Monday in January in odd-numbered years,
20 those precinct committeemen and committeewomen elected at
21 the immediate past primary election and those selected by
22 appointment prior to December 2 of the year in which the
23 election occurred for vacant positions, shall be authorized

1 to vote under this subparagraph. The meeting shall be held
2 not later than fifteen (15) days after the state central
3 committee is notified of the vacancy. The state central
4 committee of each political party shall establish
5 procedures for conducting the vote required under this
6 subparagraph and may delegate the authority to call the
7 meeting required under this subparagraph;

8
9 (C) If the incumbent who has vacated office
10 did not represent a political party at the time of his
11 election under W.S. 22-6-120(a)(vii), or at the time of his
12 appointment if not elected to office, the county
13 commissioners shall proceed in accordance with the
14 provisions of this subparagraph. The county commissioners
15 shall publish in a newspaper of general circulation in the
16 county, notice that within fifteen (15) days after
17 publication, any ~~qualified~~ person qualified to hold the
18 office may make application directly to the county
19 commissioners for appointment to fill the vacancy. Within
20 twenty (20) days after publication of the notice of the
21 vacancy in office, the county commissioners shall fill the
22 vacancy by appointment of appointing one (1) person

1 qualified to hold the office from among those submitting
2 applications;

3
4 (vi) If the county commissioners fail to fill
5 any vacancy as required in this section within the time
6 specified, any ~~qualified elector of~~ person residing in the
7 county or legislative district who is qualified to hold the
8 office may file a petition with the clerk of the district
9 court of the county or legislative district in which the
10 vacancy occurred requesting the judge of the district court
11 to fill the vacancy. Within thirty (30) days after the
12 petition is filed the judge shall fill the vacancy by
13 appointing a ~~qualified elector of~~ person residing in the
14 county or legislative district belonging to the same
15 political party as the incumbent represented at the time of
16 his election under W.S. 22-6-120(a)(vii), or at the time of
17 his appointment if not elected to office, who is qualified
18 to hold the office. If the incumbent did not represent any
19 political party at the time of his election or at the time
20 of his appointment if not elected to office, the judge may
21 appoint any ~~qualified elector of~~ person residing in the
22 county or legislative district who is qualified to hold the
23 office to fill the vacancy.

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2 (b) The trustees of a school or community college
3 district shall fill a vacancy in office by temporary
4 appointment in a manner provided by law. If the trustees
5 fail to appoint a ~~qualified~~ person qualified to hold the
6 office to fill a vacancy within thirty (30) days from the
7 date the vacancy occurs, or if, for any reason, the entire
8 membership of the board of trustees of a school or
9 community college district is depleted, the board of county
10 commissioners of the county or counties involved, within
11 ten (10) days of either occurrence, shall appoint a
12 ~~qualified~~ person qualified to hold the office to fill each
13 vacancy until the next election at which time an election
14 shall be held to fill the unexpired term, and each
15 appointee shall serve until his successor is elected and
16 qualified. Each appointee shall be a resident of the
17 trustee residence area, or election subdistrict, if any,
18 previously represented.

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20 (c) For purposes of this section:

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22 (i) A person shall be considered to "represent"
23 a political party if he was a nominee of that political

1 party when elected to office or when appointed to fill a
2 vacancy in office;~~;~~

3
4 (ii) "Qualified to hold the office" means a
5 person meets all applicable qualifications to be elected to
6 a public office which are set forth in the United States
7 and Wyoming constitutions and Wyoming law, as applicable,
8 on the date of their appointment to the public office.

9
10 **22-26-113. Electioneering too close to a polling**
11 **place.**

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13 Electioneering too close to a polling place or absentee
14 polling place under W.S. 22-9-125 when voting is being
15 conducted, consists of any form of campaigning, including
16 the display of campaign signs or distribution of campaign
17 literature, the soliciting of signatures to any petition or
18 the canvassing or polling of voters, except exit polling by
19 news media, within one hundred (100) yards on the day of a
20 primary, general or special election and within one hundred
21 (100) feet on all other days, of ~~the~~ any public entrance to
22 the building in which the polling place is located. This
23 section shall not apply to a bumper sticker affixed to a

1 vehicle while parked within or passing through the distance
2 specified in this section.

3

4 **Section 2.** W.S. 22-1-102(a) (xxxiii), 22-5-501 and
5 22-24-420(a) are repealed.

6

7 **Section 3.** This act is effective immediately upon
8 completion of all acts necessary for a bill to become law
9 as provided by Article 4, Section 8 of the Wyoming
10 Constitution.

11

12

(END)