

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; reducing
7 the distance from a polling place in which electioneering
8 is prohibited; repealing provisions relating to write-in
9 candidates and payments to referendum circulators; making
10 conforming amendments; and providing for an effective date.

11

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

13

14 **Section 1.** W.S. 22-1-102(a) by creating a new
15 paragraph (liii), 22-5-305(c) and (d),

1 22-16-103(c) (viii) (C) (II) and (E) (II), 22-16-106(a), (b)
2 and by creating a new subsection (d), 22-18-111(a) (i),
3 (ii), (iii) (A), (C), (vi), (b) and (c) and 22-26-113 are
4 amended to read:

5

6 **22-1-102. Definitions.**

7

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

13

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

16

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

20

21 (B) Write-in, except that this subparagraph
22 shall not apply to a person elected to public office by

1 write-in at a general or special election who did not seek
2 or campaign for election to the office;

3

4 (C) Forming a campaign committee; or

5

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

10

11 **22-5-305. When petitions may be circulated; use of**
12 **copies; requirements.**

13

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

16

17 (i) Their first and last name;

18

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

20

21 (iii) Their residence address.

22

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

7
8 **22-16-103. County canvass procedures.**

9
10 (c) The county canvassing board shall:

11
12 (viii) Ensure abstracts contain the following
13 information:

14
15 (C) The full name of each of the following
16 receiving votes:

17
18 (II) ~~Valid~~ Write-in candidates, if the
19 candidate received a sufficient number of votes; and

20
21 (E) The number of votes cast for each of
22 the following receiving votes:

23

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

3

4 **22-16-106. Write-in candidates.**

5

6 (a) Each write-in candidate nominated at a primary
7 election, who has not previously filed an application,
8 ~~accepts~~ for nomination shall accept nomination by filing an
9 application for nomination and paying the filing fee~~7~~ in
10 the office in which he would have been required to file an
11 application for nomination to that office.

12

13 (b) The chief election officer shall notify a
14 write-in candidate who has been nominated ~~for~~ at a primary
15 election within forty-eight (48) hours after the canvassing
16 board meets. Notification may be made by United States
17 postal service, any generally accepted business document
18 delivery method evidenced by receipt of delivery or
19 attempted delivery at the last known address of the
20 write-in candidate or service as provided under the Wyoming
21 Rules of Civil Procedure. Each notification provided under
22 this section shall inform the write-in candidate that
23 failure to timely respond will result in forfeiture of

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

9
10 (d) A write-in candidate elected to public office at
11 a general or special election may decline election before
12 taking the oath of office by filing written notice with the
13 county clerk where the candidate resides and the secretary
14 of state. Notice provided under this subsection shall
15 immediately create a vacancy in the office which shall be
16 filled in the manner prescribed in W.S. 22-18-101 through
17 22-18-112.

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

21
22 (a) Any vacancy in any other elective office in the
23 state except representative in congress or the board of

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

14

15 (i) If a vacancy occurs in the office of United
16 States senator or in any state office other than the
17 governor, member of the state legislature, the office of
18 justice of the supreme court and the office of district
19 court judge, the governor shall immediately notify in
20 writing the chairman of the state central committee of the
21 political party which the last incumbent represented at the
22 time of his election under W.S. 22-6-120(a)(vii), or at the
23 time of his appointment if not elected to office. The

1 chairman shall call a meeting of the state central
2 committee to be held not later than fifteen (15) days after
3 he receives notice of the vacancy. At the meeting the
4 state central committee shall select and transmit to the
5 governor the names of three (3) persons qualified to ~~fill~~
6 ~~the vacancy~~ hold the office. Within five (5) days after
7 receiving these three (3) names, the governor shall fill
8 the vacancy by temporary appointment of one (1) of the
9 three (3) to hold the office. If the incumbent who has
10 vacated office did not represent a political party at the
11 time of his election, or at the time of his appointment if
12 not elected to office, the governor shall notify in writing
13 the chairman of all state central committees of parties
14 registered with the secretary of state. The state central
15 committees shall submit to the governor, within fifteen
16 (15) days after notice of the vacancy, the name of one (1)
17 person qualified to ~~fill the vacancy~~ hold the office. The
18 governor shall also cause to be published in a newspaper of
19 general circulation in the state notice of the vacancy in
20 office. ~~Qualified~~ Persons qualified to hold the office who
21 do not belong to a party may, within fifteen (15) days
22 after publication of the vacancy in office, submit a
23 petition signed by one hundred (100) registered voters,

1 seeking consideration for appointment to the office.
2 Within five (5) days after receiving the names of ~~qualified~~
3 persons qualified to hold the office, the governor shall
4 fill the vacancy by temporary appointment to the office,
5 from the names submitted or from those petitioning for
6 appointment;

7
8 (ii) If a vacancy occurs in a county elective
9 office, except as provided in W.S. 18-3-524, the board of
10 county commissioners of the county in which the vacancy
11 occurs shall immediately notify in writing the chairman of
12 the county central committee of the political party which
13 the last incumbent represented at the time of his election
14 under W.S. 22-6-120(a)(vii), or at the time of his
15 appointment if not elected to office. The chairman shall
16 call a meeting of the county central committee to be held
17 not later than fifteen (15) days after he receives notice
18 of the vacancy. At the meeting the county central
19 committee shall select and transmit to the board of county
20 commissioners the names of three (3) persons qualified to
21 ~~fill the vacancy~~ hold the office. Within five (5) days
22 after receiving these three (3) names, the board of county
23 commissioners shall fill the vacancy by appointment of one

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

14

15 (iii) If a vacancy occurs in the office of a
16 member of the state legislature:

17

18 (A) For vacancies other than resignations,
19 the board of county commissioners of the county or counties
20 in which the vacancy occurs shall immediately notify in
21 writing the chairman of the state central committee of the
22 political party which the former incumbent represented at
23 the time of his election under W.S. 22-6-120(a)(vii), or at

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

1 committee is notified of the vacancy. The state central
2 committee of each political party shall establish
3 procedures for conducting the vote required under this
4 subparagraph and may delegate the authority to call the
5 meeting required under this subparagraph;

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

23

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

21

22 (b) The trustees of a school or community college
23 district shall fill a vacancy in office by temporary

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

16

17 (c) For purposes of this section:

18

19 (i) A person shall be considered to "represent"
20 a political party if he was a nominee of that political
21 party when elected to office or when appointed to fill a
22 vacancy in office;;

23

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

6
7 **22-26-113. Electioneering too close to a polling**
8 **place.**

9
10 Electioneering too close to a polling place or absentee
11 polling place under W.S. 22-9-125 when voting is being
12 conducted, consists of any form of campaigning, including
13 the display of campaign signs or distribution of campaign
14 literature, the soliciting of signatures to any petition or
15 the canvassing or polling of voters, except exit polling by
16 news media, within one hundred (100) ~~yards~~feet of ~~the~~any
17 public entrance to the building in which the polling place
18 is located.

19
20 **Section 2.** W.S. 22-1-102(a)(xxxiii), 22-5-501 and
21 22-24-420(a) are repealed.

22

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

5

6

(END)