

Wyoming Secretary of State

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Secretary of State



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TO: Chairman Ogden Driskill
Chairman Dan Zwonitzer
Members of the Jt. Corporations, Elections and Political Subdivisions Committee

FROM: Edward A. Buchanan, Secretary of State

DATE: May 25, 2021

SUBJECT: Runoff Elections

Thank you for your dedication to the State of Wyoming as a member of the State's legislative branch and for the many hours you served in this past legislative session. One bill from this past session, SF0145, sought to incorporate runoff elections into Wyoming's current election landscape. During the session, the County Clerks Association of Wyoming (CCAW), expressed concern over the timeline in the initial bill, especially in light of the upcoming process of reapportionment. At that time, they pledged to work with our office as well as the committee, to develop a timeline to make runoff elections possible.

Since the end of the session, our Office worked closely with CCAW in completing a thorough analysis of the current statutes and in developing a timeline that would ensure a successful runoff election system for Wyoming. In doing so, we have identified some issues to be addressed in order for the timeline to work. We offer these now in an effort to propose a proactive approach that allows runoff elections to successfully occur in every election cycle.

First and foremost, during our analysis, it has come to our attention, from consultation with the attorney general's office, that in order for Wyoming to incorporate a runoff election into our current election process, a constitutional amendment must be passed. The Wyoming Constitution, Article 3, Section 48 specifically states that "...at the first budget session of the legislature following the federal census, the legislature shall reapportion its membership based upon that census..." Since budget session bills are not enacted until the beginning of March, during a redistricting year, hosting a primary election in May under the current timeline would not be feasible.

The current process in statute requires Clerks to meet with their Commissioners to assign election districts. Following that meeting, Clerks must begin the laborious task of modifying the statewide voter registration system to reflect any changes that occurred due to the reapportionment. Redistricting changes in the system require a minimum of 30 days to complete. Considering all of the current required dates and timeframes: meetings between the Clerks and Commissioners, changes to the statewide voter registration system, preparation of ballots, printing and shipping of ballots, testing of voting equipment, among other things, the necessary date for the legislature to reapportion their members prior to a May election would be no later than December 10th. This time frame provides the same six (6) month period

that currently exists during a redistricting year for counties to both accurately update their voter registration system and for all other election related processes to occur.

I would offer the recommendation that the committee, concurrent with runoff election legislation, bring forth legislation to amend the constitution, in order that the amendment be voted upon by the people in the general election of 2022 and setting the stage for a successful rollout of runoff elections in 2024. I would further suggest language incorporated in the runoff election legislation indicating that the "law shall only take effect upon the successful passage of the constitutional amendment to Article 3, Section 48 of the Wyoming Constitution."

In addition to a constitutional amendment, several statutory references indicate exact dates when certain events must take place. Many of the dates must be moved to accommodate a May primary and subsequent runoff election. All of the necessary statutory changes, including those related to campaign finance, have been outlined in the two-page Attachment A for your ready reference.

Thank you for your consideration. Please reach out to my office with any questions. We look forward to assisting in any way we can.

Ed

Attachment A - Election Runoff Recommended Law Changes*

#	Citation	Current Law	Proposed Change	Comment
1	W.S. 22-4-402(e)	...petition circulated no earlier than April 1...	...petition circulated no earlier than January 1st...	Political Party formation petition circulation start date (preceding year).
2	Wyoming Constitution, Article 3, Section 48	At the first budget session of the legislature following the federal census, the legislature shall reapportion its membership based upon that census. notwithstanding any other provision of this article, any bill to apportion the legislature may be introduced in a budget session in the same manner as in a general session.	...The legislature shall reapportion its membership based upon the federal census at a special session that must occur on or before December 10 of the year of the federal census. Notwithstanding any other provision of this article, any bill to apportion the legislature may be introduced in the same manner as in a general session...	Constitutional change required to accommodate runoff elections in a redistricting year.
3	W.S. 22-8-101(a)	...not later than the third Tuesday in April...	...not later than First Tuesday in January...	Clerk notifies the county political party chairmen of number of election judges and counting board members needed.
4	W.S. 22-7-101	...first meeting in May...	...first Tuesday in January...	Commissioners divide county into election districts.
5	W.S. 22-2-108	...between twenty-fourth day of April and the third day of May...	...no later than 110 and not less than 100 days before the primary election...	SOS certifies officers to be elected to Clerks.
6	W.S. 22-8-101(b)	...Not later than the third Tuesday in May...	...first Tuesday in February...	Election judge list provided by parties to County Clerk.
7	W.S. 22-4-402(a)	...not later than June 1...	...no later than February 1...	New Political Party filing deadline.
8	W.S. 22-2-109(a)	...between 101 and 91 days...	...between 91 and 81 days...	Clerk publish primary proclamation
9	W.S. 22-5-209	...not more than 96 days and not later than 81 days...	...not more than 90 days and not later than 80 days...	Candidate filing reduced to 10 day period.
10	W.S. 22-2-113e	...The county clerks shall purge and update voter registration information on the voter registration system not later than the fifteenth day of February each year and shall notify the secretary of state upon completion, but not later than February 15 of each year...	...The county clerks shall purge and update voter registration information on the voter registration system not later than the fifteenth day of February following a general election year and shall notify the secretary of state upon completion but not later than February 15 following a general election year...	Clerks update the voter registration system continually through the year but are only required to purge following a general election.
11	W.S. 22-23-303 and 22-5-209	...not later than 68 days...	...not later than 75 days...	Candidate certification to clerks by state and municipality is required earlier.
12	W.S. 22-8-101(d)	...not later than June 30...	...not later than March 31...	Clerks appoint judges.
13	W.S. 22-2-104	...on the first Tuesday after the Third Monday in August...	...on the first Tuesday after the first Monday in May...	Primary Election Day
14	W.S. 22-16-103(c)(i)	...no later than the first Friday following the election...	...no later than the second Wednesday following the election...	Extended canvassing period to assist with tight timeline for clerks to conduct mandatory recounts.
15	W.S. 22-16-118	...no later than the second Wednesday following the election...	...no later than the next Tuesday following the election...	Extended canvassing period to assist with tight timeline for clerks to conduct mandatory recounts.
16	N/A	n/a	...no later than 2 days following the State Canvassing Board meeting...	Add that a notification of runoff election shall be provided to the counties.
17	W.S. 22-2-109	n/a	...runoff election proclamation published between 20 and 15 days...	
18	W.S. 22-6-105	...publish sample ballots...in which each primary and general election is held...	...publish sample ballots...in which each primary, runoff election, and general election is held...	Include publication for runoff election.
19	W.S. 22-2-104	n/a	...first Tuesday after the second Monday in August...	Date of Runoff Election
20	W.S. 22-16-102	...county clerk shall prepare an abstract of the vote of all precincts in the county following a county primary, special or general election...	...county clerk shall prepare an abstract of the vote of all precincts in the county following a county primary, runoff, special or general election...	Runoff County Canvassing
21	W.S. 22-22-202	...not more than 90 nor less than 70 days prior...	...not more than 90 days nor less than 80 days prior...	School Board candidate filing for the General Election shortened.

Campaign Finance Items				
22	W.S. 22-25-101(c)(i)(C)	within thirty (30) calendar days of a primary election, sixty (60) calendar days of a general election	...within thirty (30) calendar days of a primary or runoff election, sixty (60) calendar days of a general election...	
23	W.S. 22-25-102(c)(i)(B) and (ii)(B)	...may be given prior to the date for the primary election. This subparagraph shall not apply to any candidate unopposed in the primary election, or nominated in accordance...	...may be given prior to the date for a runoff election. This subparagraph shall not apply to any candidate unopposed in the primary election, or successfully nominated at the primary election or in accordance ...	
24	W.S. 22-25-102(j)	...subsection (c) of this section the primary, general and special elections...	subsection (c) of this section the primary, runoff , general and special elections	
25	W.S. 22-25-102(m)	...of this subsection the primary, general and special elections shall be deemed separate elections...	...of this subsection the primary, runoff , general and special elections shall be deemed separate elections...	
26	W.S. 22-25-104	...the same political party running in the primary election....	...the same political party running in the a primary, or runoff election....	
27	W.S. 22-25-105(a)	...contributions and expenditures for primary, general and special election campaigns...	contributions and expenditures for primary, runoff , general and special election campaigns	
28	W.S. 22-25-106(a)(i)	...(14) days before any primary, general or special election. Any contribution received or expenditure made after the statement has been filed, through the day of the election, whether a primary, general...	...(14) days before any primary, runoff , general or special election. Any contribution received or expenditure made after the statement has been filed, through the day of the election, whether a primary, runoff , general...	
29	W.S. 22-25-106(b)(i)	...which expends any funds in any primary, general or special election shall file an itemized statement of contributions and expenditures at least seven (7) days but not more than fourteen (14) days before any primary, general or special election. Any contribution received or expenditure made after the statement has been filed, through the day of the election, whether a primary general or special election...	...which expends any funds in any primary, runoff , general or special election shall file an itemized statement of contributions and expenditures at least seven (7) days but not more than fourteen (14) days before any primary, runoff , general or special election. Any contribution received or expenditure made after the statement has been filed, through the day of the election, whether a primary, runoff , general or special election,...	
30	W.S. 22-25-106(h)(ii)	...more than fourteen (14) days before any primary, general or specialbefore any primary, runoff , general or special election. Any contribution received or expenditure made after the statement has been filed, through the day of the election, whether a primary, runoff , general or special election...	
31	W.S. 22-25-107(b)	...least seven (7) days before any primary, general or special election...	...least seven (7) days before any primary, runoff , general or special election...	

This table includes every instance of election activities where a runoff election has an impact to timeframes, but may not include all necessary conforming amendments to insert the term runoff throughout the Election Code where timeframes are not involved.