

SENATE FILE NO. SF0128

Election runoffs.

Sponsored by: Senator(s) Meier and Representative(s) Clem,  
Jaggi and Madden

A BILL

for

1 AN ACT relating to elections; requiring a runoff election  
2 after a primary election for specified statewide offices  
3 when no candidate receives a majority of the vote;  
4 requiring that runoff elections be conducted by mail  
5 ballot; changing the date for primary elections; amending  
6 election related time lines; specifying procedures;  
7 conforming existing statutes; and providing for an  
8 effective date.

9

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

11

12 **Section 1.** W.S. 22-5-601 is created to read:

13

14

ARTICLE 6

15

RUNOFF MAIL BALLOT ELECTIONS

1

2           **22-5-601. Runoff elections for nominations; mail**  
3 **ballot procedures; applicability.**

4

5           (a) For nominations for governor, secretary of state,  
6 state treasurer, state auditor and state superintendent of  
7 public instruction, a runoff election shall be held with  
8 respect to that nomination if no candidate receives a  
9 majority of the vote on the respective partisan primary  
10 ballot. The candidates in the runoff election shall be the  
11 two (2) candidates who received the highest number of votes  
12 in their respective partisan primary election except:

13

14           (i) If more than two (2) candidates tie for the  
15 highest number of votes in the primary election, the state  
16 canvassing board shall cast lots to determine which two (2)  
17 shall be runoff election candidates; or

18

19           (ii) If two (2) or more candidates tie for the  
20 second highest number of votes in the primary election, the  
21 state canvassing board shall cast lots to determine who  
22 shall be the second candidate in the runoff election.

23

1           (b) If any candidate eligible to be in a runoff  
2 election withdraws, dies or is determined ineligible, the  
3 remaining two (2) candidates receiving the highest number  
4 of votes in accordance with subsection (a) of this section  
5 shall be the candidates in the runoff election.

6

7           (c) Runoff elections shall be conducted by mail.  
8 Official ballots shall be prepared by the secretary of  
9 state and all other pre-election procedures shall be  
10 followed as otherwise provided by law or as required by  
11 rules promulgated by the secretary of state, except that  
12 mail ballot packets shall be prepared in accordance with  
13 the following:

14

15           (i) Fourteen (14) days before a runoff election,  
16 a special mail ballot packet shall be mailed to each  
17 qualified elector entitled to vote in the special mail  
18 ballot election, at the last address appearing in the  
19 registration records, which shall be marked "DO NOT  
20 FORWARD-ADDRESS CORRECTION REQUESTED," or any other similar  
21 statement which is in accordance with United States postal  
22 service regulations;

23

1           (ii) The ballot or ballot label shall contain  
2 the following warning:

3

4

WARNING

5 The criminal laws regulating the conduct of elections  
6 contained in chapter 26 of the Wyoming Election Code of  
7 1973, as amended, apply with equal force to elections by  
8 mail.

9

10           (iii) Beginning fourteen (14) days prior to a  
11 runoff election and until 4:00 p.m. on the runoff election  
12 day, mail ballots shall be made available at every Wyoming  
13 county court house for voters entitled to vote in the  
14 election but whose address has changed or who did not  
15 receive their ballot in the mail and for voters allowed by  
16 law to register and vote the day of the election;

17

18           (iv) Upon receipt of a ballot, an elector  
19 wishing to cast the ballot in the runoff election shall  
20 mark the ballot, sign and complete the return verification  
21 envelope and comply with the instructions provided with the  
22 ballot. The voter may return the marked ballot to the  
23 election official by United States mail or by depositing

1 the ballot at the office of the election official or a  
2 designated depository no later than 5:00 p.m. on election  
3 day;

4  
5 (v) Once the ballot is returned, it shall not be  
6 returned to the elector. The election official shall first  
7 qualify the submitted ballot by examining the verification  
8 envelope and comparing the information on the envelope to  
9 the poll list to determine whether the ballot was submitted  
10 by an elector who has not previously voted in the election.  
11 If the ballot so qualifies and is otherwise valid, the  
12 official shall place a number next to the elector's name in  
13 the poll book. The election official shall then open and  
14 separate the ballot from the envelope and place the ballot  
15 in a ballot box so as to keep the elector's ballot private;

16  
17 (vi) All deposited ballots shall be counted as  
18 provided in this act and rules promulgated by the secretary  
19 of state. A runoff election mail ballot shall be valid and  
20 counted only if it is returned in the return verification  
21 envelope, the affidavit on the envelope is signed by the  
22 elector to whom the ballot was issued and the information  
23 on the envelope is verified as provided in paragraph (vi)

1 of this subsection. If the election official determines  
2 that an elector to whom a replacement ballot has been  
3 issued has voted more than once, the official shall only  
4 count the first ballot received from that elector.

5

6 (d) The secretary of state after consultation with  
7 the county clerks shall:

8

9 (i) Prescribe the form of materials to be used  
10 in the conduct of runoff elections by mail, including all  
11 mail ballot instructions for completing the ballot and  
12 return verification envelope;

13

14 (ii) Establish procedures for conducting runoff  
15 mail ballot elections consistent with the Wyoming Election  
16 Code and applicable federal law.

17

18 (e) To the extent this section conflicts with other  
19 sections of this Election Code this section shall apply.

20

21 **Section 2.** W.S. 22-2-101(a)(ii), 22-2-104(b),  
22 22-2-108, 22-2-109(a) and by creating a new subsection (d),  
23 22-3-102(a)(intro) and by creating a new subsection (f),

1 22-3-109(a), 22-4-402(a) and (e), 22-5-209, 22-5-215,  
2 22-5-219(a), 22-6-101, 22-8-101(a), (b) and (d), 22-8-116  
3 and 22-21-103 are amended to read:

4

5 **22-2-101. Applicability and construction of Election**  
6 **Code generally.**

7

8 (a) Chapters 1 through 28 of this Election Code apply  
9 to the following elections:

10

11 (ii) Primary elections and runoff elections  
12 under W.S. 22-5-601;

13

14 **22-2-104. Election dates.**

15

16 (b) A primary election shall be held at the regular  
17 polling places in each precinct on the first Tuesday after  
18 the third Monday in ~~August~~June in general election years  
19 for the nomination of candidates for partisan and  
20 nonpartisan offices to be filled at the succeeding general  
21 election and for the election of major party precinct  
22 committeemen and committeewomen.

23

1           **22-2-108. Secretary of state to certify officers to**  
2 **be elected.**

3

4 Between ~~the twenty-fourth day of April and the third day of~~  
5 ~~May~~ March 20 and March 30 in each general election year,  
6 the secretary of state shall transmit to the county clerk  
7 of each county a certified list stating what officers,  
8 other than county and precinct officers, are to be  
9 nominated or elected at the election.

10

11           **22-2-109. County clerk to publish proclamation.**

12

13           (a) Between ~~one hundred one (101) and~~ ninety-one (91)  
14 and eighty-one (81) days before each primary election the  
15 county clerk in each county shall publish at least once in  
16 a newspaper of general circulation in the county and post  
17 in the county clerk's office and at the place where each  
18 municipality within the county regularly holds its council  
19 meetings a proclamation setting forth the date of the  
20 election, the offices to be filled at the election  
21 including the terms of the offices, the number of persons  
22 required by law to fill the offices, the filing deadline  
23 for the offices and the requirements for filing statements



1 of campaign receipts and expenditures. The proclamation  
2 shall also include the aforementioned information regarding  
3 offices to be filled at the general election and any other  
4 pertinent primary election information. In addition, the  
5 description of any ballot proposition submitted to the  
6 voters of the state, a political subdivision thereof,  
7 county or other district shall be included.

8  
9 (d) Between thirty-five (35) and twenty-five (25)  
10 days before any runoff election described by W.S. 22-5-601,  
11 the county clerk in each county shall publish at least once  
12 in a newspaper of general circulation in the county and  
13 post conspicuously in at least three (3) public places in  
14 each municipality a proclamation setting forth the date of  
15 the runoff election and the offices to be filled at the  
16 election, including the terms of the offices.

17

18 **22-3-102. Qualifications; temporary registration.**

19

20 (a) Except as provided in subsection (f) of this  
21 section, a person may register to vote not less than  
22 fourteen (14) days before an election, at any election  
23 specified in W.S. 22-2-101(a)(i) through (viii) or as

1 provided by W.S. 22-3-117, who satisfies the following  
2 qualifications:

3  
4 (f) Only persons registered to vote in the primary  
5 election, including those who registered at the polls at  
6 the primary election, may vote in the runoff election  
7 described in W.S. 22-5-601. No person shall change his  
8 party affiliation at a runoff election from that under  
9 which he was registered at the time of the primary  
10 election.

11  
12 **22-3-109. Certification and transmittal of poll**  
13 **lists; posting of registry lists.**

14  
15 (a) Not less than ten (10) days before any election,  
16 the county clerk shall certify and transmit to the officer  
17 in charge of each election at his request the necessary  
18 poll lists for the precincts or areas involved in the  
19 election. Not less than ten (10) days prior to the primary  
20 and general elections and not less than five (5) days prior  
21 to a runoff election described in W.S. 22-5-601, the county  
22 clerks shall ~~upon request~~ deliver ~~up to~~ three (3) copies of  
23 the poll lists for each precinct in the county to the

1 county chairman of each political party in the respective  
2 counties.

3

4 **22-4-402. Petition; form; validity.**

5

6 (a) Any group of persons desiring to form a new  
7 political party within this state shall file a petition  
8 with the secretary of state not later than ~~June~~April 1 in  
9 any general election year in which the party seeks to  
10 qualify for the general election ballot.

11

12 (e) The petition shall be circulated no earlier than  
13 ~~April~~February 1 of the year preceding the general  
14 election.

15

16 **22-5-209. Time for filing nomination applications;**  
17 **certified list.**

18

19 An application for nomination shall be filed not more than  
20 ~~ninety-six (96)~~eighty-eight (88) days and not later than  
21 eighty-one (81) days next preceding the primary election.  
22 Not later than sixty-eight (68) days before a primary  
23 election the secretary of state shall transmit to each

1 county clerk a certified list of persons whose applications  
2 have been filed in the office of the secretary of state  
3 stating as to each his name, age, address, office sought  
4 and party affiliation.

5

6 **22-5-215. Nomination of partisan candidates and**  
7 **write-in candidates.**

8

9 Except as provided in W.S. 22-5-601, on each party ballot  
10 the candidate or candidates equal in number to the number  
11 to be elected to each office who receive the largest number  
12 of votes shall be nominated and shall be entitled to have  
13 their names printed on the ballot for the next general  
14 election. A write-in candidate shall not be nominated and  
15 shall not be entitled to have his name printed on the  
16 ballot for the next general election unless he received at  
17 least twenty-five (25) write-in votes. An unsuccessful  
18 candidate for office at a primary election whose name is  
19 printed on any party ballot may not accept nomination for  
20 the same office at the next general election.

21

22 **22-5-219. Further action by nominees or elect not**  
23 **required; exception.**

1

2 (a) Candidates nominated and major party precinct  
3 committeemen and committeewomen elected at a primary or  
4 runoff election shall be deemed nominated or elected  
5 without further action. In addition, each write-in  
6 candidate nominated at a primary or runoff election shall  
7 comply with the provisions of W.S. 22-16-106.

8

9 **22-6-101. Certification of candidates nominated;**  
10 **printing of names.**

11

12 Not less than sixty (60) days before each general election  
13 the secretary of state shall transmit to each county clerk  
14 under party headings a certified list of the name and  
15 address of each person nominated by primary or runoff  
16 election as indicated by the state canvass, the name of  
17 each person nominated by provisional or minor party  
18 convention, the name of each independent candidate  
19 qualifying for nomination by petition, and the office  
20 sought. The names of these candidates shall be printed on  
21 the official ballot of the general election.

22

1           **22-8-101. Notice of election officials needed; county**  
2 **chairmen to submit list of names; municipal clerks list of**  
3 **names appointment.**

4  
5           (a) Not later than the third Tuesday of ~~April~~ March  
6 in each general election year, each county clerk shall  
7 notify the county chairmen of the major and minor political  
8 parties in the county of the number of election judges and  
9 counting board members and alternates needed for the  
10 ensuing two (2) year term.

11  
12           (b) Not later than the third Tuesday of ~~May~~ April in  
13 each general election year the county chairman of each  
14 major and minor political party in each county may certify  
15 to the county clerk a list of registered electors residing  
16 in the county and affiliated with the party, and a list of  
17 persons who are at least sixteen (16) years of age who  
18 otherwise meet all requirements for qualification as an  
19 elector, who are willing to serve as a judge of election or  
20 as a member of a counting board.

21  
22           (d) Not later than ~~June 30~~ May 10, the county clerk  
23 on each general election year shall appoint judges of

1 election and counting boards and alternates from lists  
2 submitted by the county chairmen of the major and minor  
3 political parties.

4

5 **22-8-116. Compensation.**

6

7 Judges of election and members of counting boards shall be  
8 compensated for services at a rate to be determined by the  
9 board of county commissioners at the ~~June~~April meeting and  
10 stated on the notice sent to each nominee. The rate shall  
11 be not less than the state minimum wage. Compensation shall  
12 begin one (1) hour before a member assumes his duties. The  
13 election official who delivers the returns shall receive  
14 additional compensation for necessary travel beyond ten  
15 (10) miles at the rate authorized for county employees. If  
16 a flat rate is paid, said sum shall not be less than the  
17 state hourly minimum wage multiplied by the number of hours  
18 the polls are open plus one (1) hour.

19

20 **22-21-103. How bond question to be submitted to**  
21 **electors; contents.**

22

1 Each bond question shall be submitted to a vote of the  
2 qualified electors of the political subdivision. Every bond  
3 election shall be held on the same day as a primary  
4 election or a general election, or on the Tuesday next  
5 following the first Monday in May or November, or on the  
6 Tuesday next following the third Monday in ~~August~~June. If  
7 calling the election in May, the body political subdivision  
8 shall by March 1, provide written notification to the  
9 county clerk, specifying the date of the election and the  
10 bond question. If the political subdivision specifies the  
11 date of the election to be a primary or general statewide  
12 or other ~~August~~June or November election, then the  
13 political subdivision shall provide notice to the county  
14 clerk not less than one hundred ten (110) days before the  
15 election if for a primary or other ~~August~~June election,  
16 and not less than seventy (70) days before the election, if  
17 for a general or other November election. The bond  
18 question shall state the purpose of the bonds, the maximum  
19 principal amount thereof, the maximum number of years  
20 allowed for the indebtedness and the maximum rate of  
21 interest to be paid thereon. The secretary of state may  
22 promulgate reasonable rules for conducting bond elections



1 where the election is not held at the same time as the  
2 general or primary election.

3

4       **Section 3.** The secretary of state's office and  
5 Wyoming county clerks shall confer on the scheduling of  
6 primary elections and other time lines required by this  
7 act. On or before August 1, 2015, the secretary of state's  
8 office and any Wyoming county clerk may submit a  
9 recommendation to the joint corporations, elections and  
10 political subdivisions interim committee concerning the  
11 scheduling of primary elections and other time lines  
12 required by this act. The joint corporations, elections  
13 and political subdivisions interim committee shall consider  
14 any recommendation received and if any primary election  
15 date or other time requirement specified by this act is  
16 inadvisable, the committee shall propose an amendment to  
17 the date or time requirement during the 2016 budget  
18 session.

19

20       **Section 4.** This act is effective July 1, 2016.

21

22

(END)