Gary Richard Herbert

Governor

EXECUTIVE ORDER

Suspending Certain Provisions of the Utah Election Code Regarding Signature Gathering

WHEREAS, on March 6, 2020, I issued Executive Order 2020-1, declaring a state of emergency due to novel coronavirus disease 2019 (COVID-19);

WHEREAS, COVID-19 is caused by a virus that spreads easily from person to person, may result in serious illness or death, and has been characterized by the World Health Organization as a worldwide pandemic;

WHEREAS, on March 22, 2020, the Utah Department of Health and Mountainstar HCA announced Utah's first COVID-19-related death;

WHEREAS, the number of diagnosed COVID-19 cases in Utah continues to rise;

WHEREAS, on March 16, 2020, President Trump and the White House Coronavirus Task Force issued the President's Coronavirus Guidelines for America to help protect Americans during the global COVID-19 outbreak;

WHEREAS, consistent with the President's Coronavirus Guidelines for America, state and local health authorities have encouraged individuals and businesses to limit in-person contact in order to prevent the continued spread of COVID-19;

WHEREAS, a primary election will be held in Utah on June 30, 2020;

WHEREAS, Utah Code Title 20A, Chapter 9, Part 4, Primary Elections governs the administration of primary elections, including requirements for an individual to appear as a candidate for elective office on the regular primary election ballot of the registered political party listed on the individual's declaration of candidacy;

WHEREAS, Utah Code § 20A-9-408 provides requirements for a member of a qualified political party who is seeking the nomination of the qualified political party for an elective office (hereinafter, a "candidate") through a signature-gathering process;

WHEREAS, Utah Code § 20A-9-408(9)(a)(ii) requires a candidate to submit signatures to the election officer no later than 5 p.m. 14 days before the day on which the qualified political party holds the party's convention to select candidates for the elective office;

WHEREAS, Utah Code § 20A-9-408(9)(a)(i) requires a candidate to collect signatures using the same circulation and verification requirements described in Utah Code §§ 20A-7-204 and 20A-7-205;

WHEREAS, Utah Code § 20A-7-204(4)(b), as made applicable to a candidate's signature packets by Utah Code § 20A-9-408(9)(a)(i), requires a candidate to create signature packets prior to circulation by "binding" a copy of a form approved by the lieutenant governor to signature sheets;

WHEREAS, Utah Code § 20A-7-205(2), as made applicable to a candidate's signature packets by Utah Code § 20A-9-408(9)(a)(i), requires a candidate to ensure that any signature sheet is signed in the presence of and verified by an individual meeting certain qualifications by completing a verification printed on the last page of each signature packet;

WHEREAS, Utah Code §§ 20A-9-408(9)(d)(i) and (ii) require the election officer to check and take certain actions regarding any individual who completes a verification for a signature packet;

WHEREAS, Utah Code §§ 20A-7-204(4)(b) and 205(2), as made applicable to a candidate's signature packets by Utah Code § 20A-9-408(9)(a)(i), necessitate a candidate or petition circulator to deliver a nomination petition to the public for signatures in person or by physical mail, a process that conflicts with recommendations by state and local leaders to limit in-person contact to prevent the continued spread of COVID-19, and limits the ability of candidates to gather and submit signatures during the state of emergency;

WHEREAS, the signature-gathering period for the June 30, 2020 general primary began on January 2, 2020, and ends at 5 p.m. on April 13, 2020;

WHEREAS, the State maintains a compelling interest in preserving the integrity of the signature-gathering process;

WHEREAS, Utah Code §§ 20A-9-408(9)(d)(iii) and (iv) require the election officer to determine whether each signer is a registered voter who is qualified to sign the petition, using the same method, described in Utah Code § 20A-7-206.3, used to verify a signature on a petition, and to certify whether each name is that of a registered voter who is qualified to sign the signature packet;

WHEREAS, the Utah Elections Office and I have consulted with, and have been advised by, the Utah Office of the Attorney General;

WHEREAS, in May 2019 Lieutenant Governor Cox retained Gayle McKeachnie, as an independent third-party advisor, to review and advise on all elections questions related to the gubernatorial campaign before the Lieutenant Governor makes a decision on those questions;

WHEREAS, the Utah Elections Office and I have consulted with, and have been advised by, Gayle McKeachnie regarding preserving candidates' access to the regular primary ballot while maintaining the integrity of the signature-gathering process;

WHEREAS, Utah Code § 53-2a-209(4) authorizes the governor to suspend by executive order enforcement of a statute that is directly related and necessary to address a state of emergency;

WHEREAS, Utah Code § 53-2a-204(1)(b) authorizes the governor to employ measures and give direction to state and local officers and agencies that are reasonable and necessary to

secure compliance with orders made pursuant to Utah Code Title 53, Chapter 2a, Part 2, Disaster Response and Recovery Act.

NOW, THEREFORE, I, Gary R. Herbert, Governor of the State of Utah, hereby order the suspension of enforcement of:

1. Utah Code § 20A-7-204(4)(b), as made applicable to a candidate's signature packets by Utah Code § 20A-9-408(9)(a)(i), to the extent that it requires a candidate to create signature packets prior to circulation by "binding" a copy of a form approved by the lieutenant governor to signature sheets;
2. Utah Code § 20A-7-205(2), as made applicable to a candidate's signature packets by Utah Code § 20A-9-408(9)(a)(i), to the extent that it requires a candidate to ensure that any signature sheet is signed in the presence of and verified by an individual meeting certain qualifications by completing a verification printed on the last page of each signature packet;
3. Utah Code § 20A-9-408(9)(d)(i); and
4. Utah Code § 20A-9-408(9)(d)(ii).

This Order shall remain in effect until the date the state of emergency declared in Executive Order 2020-1 is terminated, or until otherwise modified, amended, rescinded, or superseded by me or by a succeeding governor.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah. Done in Salt Lake City, Utah, on this, the 26th day of March, 2020.

Gary R. Herbert
Governor

ATTEST:

Spencer J. Cox
Lieutenant Governor

2020/008/EO