

# Model Chief Election Official Qualifications Legislation

*A bill to establish professional qualifications for the state's chief election official.*

Drafted by

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## Section 1. Findings and Purpose

(a) The Legislature finds that

- (1) in light of the increasing complexity of election administration, the position of chief election official should require professional qualifications in election administration;
- (2) fair, trusted elections require that election officials conduct their work in an impartial manner;
- (3) the state's chief election official should not be allowed to run for office while administering elections;
- (4) voters are concerned that election officials may create rules, interpret law, or use administrative discretion to help their political party win an election;
- (5) voters have particularly low confidence that disputed elections will be handled fairly when those voters do not belong to the same party as the state's chief election official; and
- (6) restoring and maintaining voter confidence in elections is paramount.

(b) It is the purpose of this act to ensure that the state's election administration is led by a qualified, impartial professional.

## Section 2. Definitions

In this act:

- (1) “chief election official” means the highest State official with responsibility for the administration of state or federal elections under state or federal law.
- (2) “senior election official” means [enumerate all high-level state and local election administrators whose experience should be deemed to satisfy section (3)(b)(1)], including the chief election official as defined in subsection (1).

## Section 3. Qualifications for Chief Election Official<sup>1</sup>

- (a) No person shall hold the office that exercises the authority of the chief election official unless that person:
  - (1) has been a bona fide resident of the State of \_\_\_\_\_ for at least one year;
  - (2) is qualified to administer elections as provided in subsection (b); and
  - (3) is not ineligible for any of the reasons listed in subsection (c).
- (b) A candidate for the office that exercises the authority of the chief election official shall only be deemed qualified if, at the time of filing their candidacy, the candidate satisfies at least one of the following criteria:
  - (1) has served as a senior election official for at least two of the past four years; or
  - (2) has served within an office that oversees or implements the administration of state or local elections for at least four of the past eight years; or
  - (3) has completed a course of study in election administration or a closely related field at an accredited school or university, culminating in a certificate or degree.
- (c) An individual shall be ineligible to hold the office that exercises the authority of the chief election official if that individual has, within the past four years:

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<sup>1</sup> If a state constitution’s qualifications for the office exercising the authority of the chief election official are exclusive, the qualifications and employment restrictions contained in this model legislation may need to be adopted by state constitutional amendment.

- (1) served as an elected or appointed member of a political party central committee at a state or national level;
  - (2) served as the statewide or federal chair of a presidential campaign;
  - (3) filed to be a partisan candidate for any statewide or federal elective office except the office that exercises the authority of the chief election official;
  - (4) worked as a paid employee or consultant of a candidate committee or political action committee; or
  - (5) been convicted of a substantial elected-related offense.
- (d) It shall be a requirement of candidacy for the position of chief election official that a person must file a written statement that the individual satisfies the requirements of this section and is thereby qualified to hold the office exercising the authority of the chief election official. The written statement shall be on a form prescribed by the [state ethics commission or secretary of state]. The form must be filed along with the individual's nomination papers or declaration of candidacy. The agency or official with whom nomination papers or declarations of candidacy are required to be filed shall make a facsimile of the written statement publicly available online as promptly as possible, but no later than 15 days after submission.

#### **Section 4. Employment Restrictions for Chief Election Official**

- (a) The chief election official may not be a candidate for any other elected state office during their tenure as the chief election official.
- (b) The chief election official may not be a candidate for any elected federal office during their tenure as the chief election official.

#### **Section 5. Enforcement**

- (a) The agency or official with whom nomination papers or declarations of candidacy are required to be filed shall decline to accept such papers if the individual fails to file the written statement required under section (3)(d) or if it conclusively appears, either on the face of the papers and written statement offered for filing, or by admission of the candidate, that the candidate is ineligible to be nominated or elected. Any person whose papers

are declined pursuant to this section may challenge the decision in the appropriate court.<sup>2</sup>

- (b) Any registered voter who believes that an individual is ineligible to hold the office exercising the authority of the chief election official may file a verified complaint with the attorney general alleging such facts as may cause him or her to believe that the individual is not qualified to hold the office. The attorney general may thereupon investigate whether such allegations are true. If the attorney general finds that the subject person is not qualified to hold office, the attorney general may commence an action to restrain any person not entitled to take office from appearing on the ballot for the office or assuming the office or to have the subject person's office declared vacant.<sup>3</sup>

## **Section 6. Severability**

If a provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

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<sup>2</sup> The applicable judicial venue should be tailored to the organizational structure and naming conventions of the state's courts.

<sup>3</sup> This section should cross-reference any existing provisions in state law governing such contest procedures.