

1 **RESTORATION OF FELON'S RIGHT TO**
2 **HOLD OFFICE**

3 2006 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Parley G. Hellewell**

6 House Sponsor: _____

8 **LONG TITLE**

9 **General Description:**

10 This bill modifies provisions of the Election Code relating to restoration of certain
11 voting rights.

12 **Highlighted Provisions:**

13 This bill:

14 ▶ provides that the restoration of a convicted felon's right to vote applies to felony
15 convictions in any court of the United States; and

16 ▶ provides for restoration of a convicted felon's right to hold office under certain
17 circumstances.

18 **Monies Appropriated in this Bill:**

19 None

20 **Other Special Clauses:**

21 This bill coordinates with S.B. 47 by substantively superseding a provision.

22 **Utah Code Sections Affected:**

23 AMENDS:

24 **20A-2-101.5**, as enacted by Chapter 266, Laws of Utah 1998

25 **20A-9-203**, as last amended by Chapter 209, Laws of Utah 2004

27 *Be it enacted by the Legislature of the state of Utah:*



28 Section 1. Section **20A-2-101.5** is amended to read:

29 **20A-2-101.5. Convicted felons -- Restoration of right to vote and right to hold**
30 **office.**

31 (1) As used in this section, "convicted felon" means a person convicted of a felony in
32 [~~a Utah state~~] any state or federal court of the United States.

33 (2) Each convicted felon's right to register to vote and to vote in an election is restored
34 when:

35 (a) the felon is sentenced to probation [~~by the sentencing judge~~];

36 (b) the felon is granted parole [~~by the Board of Pardons~~]; or

37 (c) the felon has successfully completed the term of incarceration to which the felon
38 was sentenced.

39 (3) Each convicted felon's right to hold elective office is restored when:

40 (a) all of the felon's felony convictions have been expunged; or

41 (b) (i) ten years have passed since the date of the felon's most recent felony conviction;

42 and

43 (ii) for each felony conviction that has not been expunged, the felon has:

44 (A) been sentenced to probation or has completed probation in relation to the felony;

45 (B) been granted parole in relation to the felony; or

46 (C) successfully completed the term of incarceration associated with the felony.

47 Section 2. Section **20A-9-203** is amended to read:

48 **20A-9-203. Declarations of candidacy -- Municipal general elections.**

49 (1) (a) A person may become a candidate for any municipal office if the person is a
50 registered voter and:

51 (i) the person has resided within the municipality in which that person seeks to hold
52 elective office for the 12 consecutive months immediately before the date of the election; or

53 (ii) if the territory in which the person resides was annexed into the municipality, the
54 person has resided within the annexed territory or the municipality for 12 months.

55 (b) In addition to the requirements of Subsection (1)(a), candidates for a municipal
56 council position under the council-mayor or council-manager alternative forms of municipal
57 government shall, if elected from districts, be residents of the council district from which they
58 are elected.

59 (c) [~~Pursuant to~~] In accordance with Utah Constitution Article IV, Section 6, any
60 mentally incompetent person, any person convicted of a felony, or any person convicted of
61 treason or a crime against the elective franchise may not hold office in this state until the right
62 to [~~vote or~~] hold elective office is restored [~~as provided by statute~~] under Section 20A-2-101.5.

63 (2) (a) Except as provided in Subsection (2)(b) or (2)(c), each person seeking to
64 become a candidate for a municipal office shall file a declaration of candidacy in person with
65 the city recorder or town clerk during office hours and not later than 5 p.m. between July 15
66 and August 15 of any odd numbered year and pay the filing fee, if one is required by municipal
67 ordinance.

68 (b) (i) As used in this Subsection (2)(b), "registered voters" means the number of
69 persons registered to vote in the municipality on the January 1 of the municipal election year.

70 (ii) A third, fourth, or fifth class city that used the convention system to nominate
71 candidates in the last municipal election as authorized by Subsection 20A-9-404(3) or used the
72 process contained in this Subsection (2)(b) in the last municipal election or a town that used the
73 convention system to nominate candidates in the last municipal election as authorized by
74 Subsection 20A-9-404(3) or used the process contained in this Subsection (2)(b) in the last
75 municipal election may, by ordinance, require, in lieu of the convention system, that candidates
76 for municipal office file a nominating petition signed by a percentage of registered voters at the
77 same time that the candidate files a declaration of candidacy.

78 (iii) The ordinance shall specify the number of signatures that the candidate must
79 obtain on the nominating petition in order to become a candidate for municipal office under
80 this Subsection (2), but that number may not exceed 5% of registered voters.

81 (c) Any resident of a municipality may nominate a candidate for a municipal office by
82 filing a nomination petition with the city recorder or town clerk during office hours but not
83 later than 5 p.m. between July 15 and August 15 of any odd numbered year and pay the filing
84 fee, if one is required by municipal ordinance.

85 (d) When August 15 is a Saturday or Sunday, the filing time shall be extended until 5
86 p.m. on the following Monday.

87 (3) (a) Before the filing officer may accept any declaration of candidacy or nomination
88 petition, the filing officer shall:

89 (i) read to the prospective candidate or person filing the petition the constitutional and

90 statutory qualification requirements for the office that the candidate is seeking; and

91 (ii) require the candidate or person filing the petition to state whether or not the
92 candidate meets those requirements.

93 (b) If the prospective candidate does not meet the qualification requirements for the
94 office, the filing officer may not accept the declaration of candidacy or nomination petition.

95 (c) If it appears that the prospective candidate meets the requirements of candidacy, the
96 filing officer shall accept the declaration of candidacy or nomination petition.

97 (4) The declaration of candidacy shall substantially comply with the following form:

98 "I, (print name) ____, being first sworn, say that I reside at ____ Street, City of ____,
99 County of ____, state of Utah, Zip Code ____, Telephone Number (if any) ____; that I am a
100 registered voter; and that I am a candidate for the office of ____ (stating the term). I request
101 that my name be printed upon the applicable official ballots. (Signed) _____

102 Subscribed and sworn to (or affirmed) before me by ____ on this
103 _____(month\day\year).

104 (Signed) _____ (Clerk or other officer qualified to administer oath)"

105 (5) (a) In all first and second class cities, and in third, fourth, or fifth class cities that
106 have not passed the ordinance authorized by Subsection (2)(b) and in towns that have not
107 passed the ordinance authorized by Subsection (2)(b), any registered voter may be nominated
108 for municipal office by submitting a petition signed by:

- 109 (i) 25 residents of the municipality who are at least 18 years old; or
- 110 (ii) 20% of the residents of the municipality who are at least 18 years old.

111 (b) (i) The petition shall substantially conform to the following form:

112 "NOMINATION PETITION

113 The undersigned residents of (name of municipality) being 18 years old or older
114 nominate (name of nominee) to the office of ____ for the (two or four-year term, whichever is
115 applicable)."

116 (ii) The remainder of the petition shall contain lines and columns for the signatures of
117 persons signing the petition and their addresses and telephone numbers.

118 (6) (a) In third, fourth, and fifth class cities that have passed the ordinance authorized
119 by Subsection (2)(b), and in towns that have passed the ordinance authorized by Subsection
120 (2)(b), any registered voter may be nominated for municipal office by submitting a petition

121 signed by the same percentage of registered voters in the municipality as required by the
122 ordinance passed under authority of Subsection (2)(b).

123 (b) (i) The petition shall substantially conform to the following form:

124 "NOMINATION PETITION

125 The undersigned residents of (name of municipality) being 18 years old or older
126 nominate (name of nominee) to the office of (name of office) for the (two or four-year term,
127 whichever is applicable)."

128 (ii) The remainder of the petition shall contain lines and columns for the signatures of
129 persons signing the petition and their addresses and telephone numbers.

130 (7) If the declaration of candidacy or nomination petition fails to state whether the
131 nomination is for the two or four-year term, the clerk shall consider the nomination to be for
132 the four-year term.

133 (8) (a) The clerk shall verify with the county clerk that all candidates are registered
134 voters.

135 (b) Any candidate who is not registered to vote is disqualified and the clerk may not
136 print the candidate's name on the ballot.

137 (9) Immediately after expiration of the period for filing a declaration of candidacy, the
138 clerk shall:

139 (a) cause the names of the candidates as they will appear on the ballot to be published
140 in at least two successive publications of a newspaper with general circulation in the
141 municipality; and

142 (b) notify the lieutenant governor of the names of the candidates as they will appear on
143 the ballot.

144 (10) (a) A declaration of candidacy or nomination petition filed under this section is
145 valid unless a written objection is filed with the clerk within five days after the last day for
146 filing.

147 (b) If an objection is made, the clerk shall:

148 (i) mail or personally deliver notice of the objection to the affected candidate
149 immediately; and

150 (ii) decide any objection within 48 hours after it is filed.

151 (c) If the clerk sustains the objection, the candidate may correct the problem by

152 amending the declaration or petition within three days after the objection is sustained or by
153 filing a new declaration within three days after the objection is sustained.

154 (d) (i) The clerk's decision upon objections to form is final.

155 (ii) The clerk's decision upon substantive matters is reviewable by a district court if
156 prompt application is made to the district court.

157 (iii) The decision of the district court is final unless the Supreme Court, in the exercise
158 of its discretion, agrees to review the lower court decision.

159 (11) Any person who filed a declaration of candidacy and was nominated, and any
160 person who was nominated by a nomination petition, may, any time up to 23 days before the
161 election, withdraw the nomination by filing a written affidavit with the clerk.

162 Section 3. **Coordinating S.B. 181 with S.B. 47 by substantively superseding**
163 **amendments.**

164 If this S.B. 181 and S.B. 47, Restoration of Voting Rights Amendments, both pass, it is
165 the intent of the Legislature that the amendments to Subsection 20A-9-203(1)(c) in this bill
166 supersede the amendments to Subsection 20A-9-203(1)(c) in S.B. 47 when the Office of
167 Legislative Research and General Counsel prepares the Utah Code database for publication.

Legislative Review Note
as of 1-25-06 10:38 AM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number SB0181

Restoration of Felon's Right to Hold Office

01-Feb-06

11:45 AM

State Impact

It is estimated that provisions of this bill can be implemented with existing resources.

Individual and Business Impact

No significant fiscal impact.

Office of the Legislative Fiscal Analyst