

1 **CANDIDACY FOR MUNICIPAL ELECTIONS**

2 2004 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: John Dougall**

5

LONG TITLE

6 **General Description:**

7 This bill authorizes certain third, fourth, and fifth class cities and towns to impose
8 alternative requirements to be a candidate for municipal office.
9

10 **Highlighted Provisions:**

11 This bill:

12 ▶ allows certain third, fourth, and fifth class cities and certain towns to require that
13 candidates for municipal office file a nominating petition in addition to their
14 declaration of candidacy in lieu of using the convention system;

15 ▶ caps the number of signatures that those municipalities may require on the petition
16 at 5% of registered voters;

17 ▶ changes the signature requirements for nominating petitions in those third, fourth,
18 and fifth class cities that have adopted that ordinance and in towns that have
19 adopted that ordinance; and

20 ▶ makes technical corrections.

21 **Monies Appropriated in this Bill:**

22 None

23 **Other Special Clauses:**

24 None

25 **Utah Code Sections Affected:**

26 AMENDS:

27 **20A-9-203**, as last amended by Chapter 127, Laws of Utah 2003



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

Section 1. Section **20A-9-203** is amended to read:

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

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

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

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

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

(c) Pursuant to Utah Constitution Article IV, Section 6, any mentally incompetent person, any person convicted of a felony, or any person convicted of treason or a crime against the elective franchise may not hold office in this state until the right to vote or hold elective office is restored as provided by statute.

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

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

(ii) A third, fourth, or fifth class city that used the convention system to nominate candidates in the last municipal election as authorized by Subsection 20A-9-404(3) or used the process contained in this Subsection (2)(b) in the last municipal election or a town that used the convention system to nominate candidates in the last municipal election as authorized by Subsection 20A-9-404(3) or used the process contained in this Subsection (2)(b) in the last municipal election may, by ordinance, require, in lieu of the convention system, that candidates

59 for municipal office file a nominating petition signed by a percentage of registered voters at the
60 same time that the candidate files a declaration of candidacy.

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

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

68 [~~(c)~~] (d) When August 15 is a Saturday or Sunday, the filing time shall be extended
69 until 5 p.m. on the following Monday.

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

72 (i) read to the prospective candidate or person filing the petition the constitutional and
73 statutory qualification requirements for the office that the candidate is seeking; and

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

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

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

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

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

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

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

88 (5) (a) [~~Any~~] In all first and second class cities, and in third, fourth, or fifth class cities
89 that have not passed the ordinance authorized by Subsection (2)(b) and in towns that have not

90 passed the ordinance authorized by Subsection (2)(b), any registered voter may be nominated
91 for municipal office by submitting a petition signed by:

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

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

95 "NOMINATION PETITION

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

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

101 (6) (a) In third, fourth, and fifth class cities that have passed the ordinance authorized
102 by Subsection (2)(b), and in towns that have passed the ordinance authorized by Subsection
103 (2)(b), any registered voter may be nominated for municipal office by submitting a petition
104 signed by the same percentage of registered voters in the municipality as required by the
105 ordinance passed under authority of Subsection (2)(b).

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

107 "NOMINATION PETITION

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

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

113 ~~[(c)]~~ (7) If the declaration of candidacy or nomination petition fails to state whether the
114 nomination is for the two or four-year term, the clerk shall consider the nomination to be for
115 the four-year term.

116 ~~[(d) (i)]~~ (8) (a) The clerk shall verify with the county clerk that all candidates are
117 registered voters.

118 ~~[(ii)]~~ (b) Any candidate who is not registered to vote is disqualified and the clerk may
119 not print the candidate's name on the ballot.

120 ~~[(6)]~~ (9) Immediately after expiration of the period for filing a declaration of

121 candidacy, the clerk shall:

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

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

127 [~~7~~] (10) (a) A declaration of candidacy or nomination petition filed under this section
128 is valid unless a written objection is filed with the clerk within five days after the last day for
129 filing.

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

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

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

134 (c) If the clerk sustains the objection, the candidate may correct the problem by
135 amending the declaration or petition within three days after the objection is sustained or by
136 filing a new declaration within three days after the objection is sustained.

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

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

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

142 [~~8~~] (11) Any person who filed a declaration of candidacy and was nominated, and any
143 person who was nominated by a nomination petition, may, any time up to 23 days before the
144 election, withdraw the nomination by filing a written affidavit with the clerk.

Legislative Review Note
as of 1-28-04 6:50 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number HB0162

Candidacy for Municipal Elections

03-Feb-04

11:41 AM

State Impact

No fiscal impact.

Individual and Business Impact

No significant fiscal impact.

Office of the Legislative Fiscal Analyst