

Senator Sheldon L. Killpack proposes the following substitute bill:

MUNICIPAL ELECTION AMENDMENTS

2004 GENERAL SESSION

STATE OF UTAH

Sponsor: John Dougall

LONG TITLE

General Description:

This bill authorizes certain third, fourth, and fifth class cities and towns to impose alternative requirements to be a candidate for municipal office and modifies provisions of the Utah Municipal Code relating to campaign finance disclosure requirements.

Highlighted Provisions:

This bill:

- ▶ allows certain third, fourth, and fifth class cities and certain towns to require that candidates for municipal office file a nominating petition in addition to their declaration of candidacy in lieu of using the convention system;
- ▶ caps the number of signatures that those municipalities may require on the petition at 5% of registered voters;
- ▶ changes the signature requirements for nominating petitions in those third, fourth, and fifth class cities that have adopted that ordinance and in towns that have adopted that ordinance;
- ▶ repeals, reenacts, and modifies a provision relating to municipal campaign finance disclosure;
- ▶ eliminates certain exemptions from campaign finance disclosure provisions and makes the requirements applicable to candidates in all municipalities;
- ▶ modifies reporting requirements;



26 ▶ requires the municipal clerk to notify candidates of disclosure requirements and that
27 the candidate's name will be removed from the ballot if the candidate does not file
28 the required report; and

29 ▶ makes technical corrections.

30 **Monies Appropriated in this Bill:**

31 None

32 **Other Special Clauses:**

33 None

34 **Utah Code Sections Affected:**

35 AMENDS:

36 **20A-9-203**, as last amended by Chapter 127, Laws of Utah 2003

37 REPEALS AND REENACTS:

38 **10-3-208**, as last amended by Chapters 215 and 292, Laws of Utah 2003

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

41 Section 1. Section **10-3-208** is repealed and reenacted to read:

42 **10-3-208. Campaign finance statement in municipal election.**

43 (1) As used in this section:

44 (a) "Reporting date" means:

45 (i) ten days before a municipal general election, for a campaign finance statement

46 required to be filed no later than seven days before a municipal general election; and

47 (ii) the day of filing, for a campaign finance statement required to be filed no later than

48 30 days after a municipal primary or general election.

49 (b) "Reporting limit" means:

50 (i) \$50; or

51 (ii) an amount lower than \$50 that is specified in an ordinance of the municipality.

52 (2) (a) (i) Each candidate for municipal office who is not eliminated at a municipal

53 primary election shall file with the municipal clerk or recorder a campaign finance statement:

54 (A) no later than seven days before the municipal general election; and

55 (B) no later than 30 days after the municipal general election.

56 (ii) Each candidate for municipal office who is eliminated at a municipal primary

57 election shall file with the municipal clerk or recorder a campaign finance statement no later
58 than 30 days after the municipal primary election.

59 (b) Each campaign finance statement under Subsection (2)(a) shall:

60 (i) except as provided in Subsection (2)(b)(ii):

61 (A) report all of the candidate's itemized and total:

62 (I) campaign contributions, including in-kind and other nonmonetary contributions, as
63 of the reporting date; and

64 (II) campaign expenditures as of the reporting date; and

65 (B) identify:

66 (I) for each contribution that exceeds the reporting limit, the amount of the contribution
67 and the name of the donor;

68 (II) the aggregate total of all contributions that individually do not exceed the reporting
69 limit; and

70 (III) for each campaign expenditure, the amount of the expenditure and the name of the
71 recipient of the expenditure; or

72 (ii) report the total amount of all campaign contributions and expenditures, if the
73 candidate receives \$500 or less in campaign contributions and spends \$500 or less on the
74 candidate's campaign.

75 (3) (a) A municipality may, by ordinance:

76 (i) provide a reporting limit lower than \$50;

77 (ii) require greater disclosure of campaign contributions and expenditures than is
78 required in this section; and

79 (iii) impose additional penalties on candidates who fail to comply with the applicable
80 requirements beyond those imposed by this section.

81 (b) A candidate for municipal office is subject to the provisions of this section and not
82 the provisions of an ordinance adopted by the municipality under Subsection (3)(a) if:

83 (i) the municipal ordinance establishes requirements or penalties that differ from those
84 established in this section; and

85 (ii) the municipal clerk or recorder fails to notify the candidate of the provisions of the
86 ordinance as required in Subsection (4).

87 (4) Each municipal clerk or recorder shall, at the time the candidate for municipal

88 office files a declaration of candidacy and again 14 days before each municipal general
89 election, notify the candidate in writing of:

90 (a) the provisions of statute or municipal ordinance governing the disclosure of
91 campaign contributions and expenditures;

92 (b) the dates when the candidate's campaign finance statement is required to be filed;
93 and

94 (c) the penalties that apply for failure to file a timely campaign finance statement,
95 including the statutory provision that requires removal of the candidate's name from the ballot
96 for failure to file the required campaign finance statement when required.

97 (5) Notwithstanding any provision of Title 63, Chapter 2, Government Records Access
98 and Management Act, the municipal clerk or recorder shall make each campaign finance
99 statement filed by a candidate available for public inspection and copying no later than one
100 business day after the statement is filed.

101 (6) (a) If a candidate fails to file a campaign finance statement before the municipal
102 general election by the deadline specified in Subsection (2)(a)(i)(A), the municipal clerk or
103 recorder shall inform the appropriate election official who:

104 (i) shall:

105 (A) if practicable, remove the candidate's name from the ballot by blacking out the
106 candidate's name before the ballots are delivered to voters; or

107 (B) if removing the candidate's name from the ballot is not practicable, inform the
108 voters by any practicable method that the candidate has been disqualified and that votes cast for
109 the candidate will not be counted; and

110 (ii) may not count any votes for that candidate.

111 (b) Notwithstanding Subsection (6)(a), a candidate who files a campaign finance
112 statement seven days before a municipal general election is not disqualified if:

113 (i) the statement details accurately and completely the information required under
114 Subsection (2)(b), except for inadvertent omissions or insignificant errors or inaccuracies; and

115 (ii) the omissions, errors, or inaccuracies are corrected in an amended report or in the
116 next scheduled report.

117 (7) A campaign finance statement required under this section is considered filed if it is
118 received in the municipal clerk or recorder's office by 5 p.m. on the date that is it due.

119 (8) (a) A private party in interest may bring a civil action in district court to enforce the
120 provisions of this section or an ordinance adopted under this section.

121 (b) In a civil action under Subsection (8)(a), the court may award costs and attorney's
122 fees to the prevailing party.

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

124 **20A-9-203. Declarations of candidacy -- Municipal general elections.**

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

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

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

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

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

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

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

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

150 Subsection 20A-9-404(3) or used the process contained in this Subsection (2)(b) in the last
151 municipal election may, by ordinance, require, in lieu of the convention system, that candidates
152 for municipal office file a nominating petition signed by a percentage of registered voters at the
153 same time that the candidate files a declaration of candidacy.

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

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

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

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

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

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

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

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

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

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

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

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

181 (5) (a) [~~Any~~] In all first and second class cities, and in third, fourth, or fifth class cities
182 that have not passed the ordinance authorized by Subsection (2)(b) and in towns that have not
183 passed the ordinance authorized by Subsection (2)(b), any registered voter may be nominated
184 for municipal office by submitting a petition signed by:

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

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

188 "NOMINATION PETITION

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

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

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

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

200 "NOMINATION PETITION

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

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

206 [~~(e)~~] (7) If the declaration of candidacy or nomination petition fails to state whether the
207 nomination is for the two or four-year term, the clerk shall consider the nomination to be for
208 the four-year term.

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

211 [~~(i)~~] (b) Any candidate who is not registered to vote is disqualified and the clerk may

212 not print the candidate's name on the ballot.

213 ~~[(6)]~~ (9) Immediately after expiration of the period for filing a declaration of
214 candidacy, the clerk shall:

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

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

220 ~~[(7)]~~ (10) (a) A declaration of candidacy or nomination petition filed under this section
221 is valid unless a written objection is filed with the clerk within five days after the last day for
222 filing.

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

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

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

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

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

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

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

235 ~~[(8)]~~ (11) Any person who filed a declaration of candidacy and was nominated, and any
236 person who was nominated by a nomination petition, may, any time up to 23 days before the
237 election, withdraw the nomination by filing a written affidavit with the clerk.