

1 **RESTORATION OF VOTING RIGHTS**

2 **AMENDMENTS**

3 2006 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Brent H. Goodfellow**

6 House Sponsor: Neal B. Hendrickson

8 **LONG TITLE**

9 **General Description:**

10 This bill modifies provisions of the Election Code relating to restoration of voting
11 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 ▶ clarifies that convicted felons may not hold elective office unless the right to hold
17 office is restored as may be provided by statute.

18 **Monies Appropriated in this Bill:**

19 None

20 **Other Special Clauses:**

21 None

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.**

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

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

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

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

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

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

39 **20A-9-203. Declarations of candidacy -- Municipal general elections.**

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

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

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

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

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

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

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

61 (ii) A third, fourth, or fifth class city that used the convention system to nominate
62 candidates in the last municipal election as authorized by Subsection 20A-9-404(3) or used the
63 process contained in this Subsection (2)(b) in the last municipal election or a town that used the
64 convention system to nominate candidates in the last municipal election as authorized by
65 Subsection 20A-9-404(3) or used the process contained in this Subsection (2)(b) in the last
66 municipal election may, by ordinance, require, in lieu of the convention system, that candidates
67 for municipal office file a nominating petition signed by a percentage of registered voters at the
68 same time that the candidate files a declaration of candidacy.

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

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

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

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

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

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

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

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

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

89 "I, (print name) _____, being first sworn, say that I reside at _____ Street, City of _____,

90 County of _____, state of Utah, Zip Code _____, Telephone Number (if any) _____; that I am a
91 registered voter; and that I am a candidate for the office of _____ (stating the term). I request
92 that my name be printed upon the applicable official ballots. (Signed) _____

93 Subscribed and sworn to (or affirmed) before me by _____ on this
94 _____(month\day\year).

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

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

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

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

103 "NOMINATION PETITION

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

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

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

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

115 "NOMINATION PETITION

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

150 (11) Any person who filed a declaration of candidacy and was nominated, and any
151 person who was nominated by a nomination petition, may, any time up to 23 days before the

152 election, withdraw the nomination by filing a written affidavit with the clerk.

Legislative Review Note
as of 12-7-05 2:39 PM

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