

MUNICIPAL ELECTION REVISIONS

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: John Dougall

Senate Sponsor: John L. Valentine

LONG TITLE

General Description:

This bill amends provisions related to filing for candidacy in certain municipal elections.

Highlighted Provisions:

This bill:

- repeals provisions authorizing certain third, fourth, and fifth class municipalities and certain towns to adopt an ordinance that allows a candidate for municipal office to file a nominating petition in lieu of using the convention system;

- repeals provisions related to signature requirements for a nominating petition in certain municipalities and towns;

- repeals provisions related to the nominating petition requirements in certain municipalities and town; and

- makes technical corrections.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

20A-9-203, as last amended by Laws of Utah 2011, Chapters 17, 327, and 395

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

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

31 **20A-9-203. Declarations of candidacy -- Municipal general elections.**

32 (1) (a) (i) A person may become a candidate for any municipal office if:

33 (A) the person is a registered voter; and

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

37 (II) if the territory in which the person resides was annexed into the municipality, the
38 person has resided within the annexed territory or the municipality the 12 consecutive months
39 immediately before the date of the election.

40 (ii) For purposes of determining whether a person meets the residency requirement of
41 Subsection (1)(a)(i)(B)(I) in a municipality that was incorporated less than 12 months before
42 the election, the municipality shall be considered to have been incorporated 12 months before
43 the date of the election.

44 (b) In addition to the requirements of Subsection (1)(a), each candidate for a municipal
45 council position shall, if elected from a district, be a resident of the council district from which
46 elected.

47 (c) In accordance with Utah Constitution Article IV, Section 6, any mentally
48 incompetent person, any person convicted of a felony, or any person convicted of treason or a
49 crime against the elective franchise may not hold office in this state until the right to hold
50 elective office is restored under Section 20A-2-101.3 or 20A-2-101.5.

51 (2) (a) [~~Except as provided in Subsection (2)(b) or (2)(c), each~~] A person seeking to
52 become a candidate for a municipal office shall:

53 (i) file a declaration of candidacy, in person with the city recorder or town clerk, during
54 office hours and not later than the close of normal office hours, between June 1 and June 15 of
55 any odd-numbered year; and

56 (ii) pay the filing fee, if one is required by municipal ordinance.

57 [~~(b) (i) As used in this Subsection (2)(b), "registered voters" means the number of~~

58 ~~persons registered to vote in the municipality on the January 1 of the municipal election year.]~~

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

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

70 ~~[(e)] (b) Any resident of a municipality may nominate a candidate for a municipal~~
71 ~~office by:~~

72 ~~(i) filing a nomination petition with the city recorder or town clerk during office hours,~~
73 ~~but not later than the close of normal office hours, between June 1 and June 15 of any~~
74 ~~odd-numbered year; and~~

75 ~~(ii) paying the filing fee, if one is required by municipal ordinance.~~

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

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

80 ~~(ii) require the candidate or person filing the petition to state whether the candidate~~
81 ~~meets those requirements.~~

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

84 ~~(c) If it appears that the prospective candidate meets the requirements of candidacy, the~~
85 ~~filing officer shall:~~

86 (i) inform the candidate that the candidate's name will appear on the ballot as it is
87 written on the declaration of candidacy;

88 (ii) provide the candidate with a copy of the current campaign financial disclosure laws
89 for the office the candidate is seeking and inform the candidate that failure to comply will
90 result in disqualification as a candidate and removal of the candidate's name from the ballot;

91 (iii) provide the candidate with a copy of Section 20A-7-801 regarding the Statewide
92 Electronic Voter Information Website Program and inform the candidate of the submission
93 deadline under Subsection 20A-7-801(4)(a);

94 (iv) provide the candidate with a copy of the pledge of fair campaign practices
95 described under Section 20A-9-206 and inform the candidate that:

96 (A) signing the pledge is voluntary; and

97 (B) signed pledges shall be filed with the filing officer; and

98 (v) accept the declaration of candidacy or nomination petition.

99 (d) If the candidate elects to sign the pledge of fair campaign practices, the filing
100 officer shall:

101 (i) accept the candidate's pledge; and

102 (ii) if the candidate has filed for a partisan office, provide a certified copy of the
103 candidate's pledge to the chair of the county or state political party of which the candidate is a
104 member.

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

106 "I, (print name) _____, being first sworn, say that I reside at _____ Street, City of _____,
107 County of _____, state of Utah, Zip Code _____, Telephone Number (if any) _____; that I am a
108 registered voter; and that I am a candidate for the office of _____ (stating the term). I will meet
109 the legal qualifications required of candidates for this office. I will file all campaign financial
110 disclosure reports as required by law and I understand that failure to do so will result in my
111 disqualification as a candidate for this office and removal of my name from the ballot. I
112 request that my name be printed upon the applicable official ballots. (Signed)

113 _____

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

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

117 (5) (a) [~~In all first and second class cities, and in third, fourth, or fifth class cities that~~
118 ~~have not passed the ordinance authorized by Subsection (2)(b) and in towns that have not~~
119 ~~passed the ordinance authorized by Subsection (2)(b), any]~~ A registered voter may be
120 nominated for municipal office by submitting a petition signed, with a holographic signature,
121 by:

122 (i) 25 residents of the municipality who are at least 18 years old; or

123 (ii) 20% of the residents of the municipality who are at least 18 years old.

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

125 "NOMINATION PETITION

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

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

131 [~~(6) (a) In third, fourth, and fifth class cities that have passed the ordinance authorized~~
132 ~~by Subsection (2)(b), and in towns that have passed the ordinance authorized by Subsection~~
133 ~~(2)(b), any registered voter may be nominated for municipal office by submitting a petition~~
134 ~~signed, with a holographic signature, by the same percentage of registered voters in the~~
135 ~~municipality as required by the ordinance passed under authority of Subsection (2)(b).]~~

136 [(b) (i) The petition shall substantially conform to the following form:]

137 ["NOMINATION PETITION]

138 [The undersigned residents of (name of municipality) being 18 years old or older
139 nominate (name of nominee) to the office of (name of office) for the (two or four-year term,
140 whichever is applicable)."]

141 [(ii) The remainder of the petition shall contain lines and columns for the holographic

142 ~~signatures of persons signing the petition and their addresses and telephone numbers.]~~

143 ~~[(7)]~~ (6) If the declaration of candidacy or nomination petition fails to state whether the
144 nomination is for the two or four-year term, the clerk shall consider the nomination to be for
145 the four-year term.

146 ~~[(8)]~~ (7) (a) The clerk shall verify with the county clerk that all candidates are
147 registered voters.

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

150 ~~[(9)]~~ (8) Immediately after expiration of the period for filing a declaration of
151 candidacy, the clerk shall:

152 (a) cause the names of the candidates as they will appear on the ballot to be published:

153 (i) in at least two successive publications of a newspaper with general circulation in the
154 municipality; and

155 (ii) as required in Section 45-1-101; and

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

158 ~~[(10)]~~ (9) A declaration of candidacy or nomination petition filed under this section
159 may not be amended after the expiration of the period for filing a declaration of candidacy.

160 ~~[(11)]~~ (10) (a) A declaration of candidacy or nomination petition filed under this
161 section is valid unless a written objection is filed with the clerk within five days after the last
162 day for filing.

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

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

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

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

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

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

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

175 [~~(12)~~] (11) Any person who filed a declaration of candidacy and was nominated, and
176 any person who was nominated by a nomination petition, may, any time up to 23 days before
177 the election, withdraw the nomination by filing a written affidavit with the clerk.