1   **MUNICIPAL ELECTION REVISIONS**

2   2012 GENERAL SESSION

3   STATE OF UTAH

4   **Chief Sponsor: John Dougall**

5   Senate Sponsor: John L. Valentine

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7 **LONG TITLE**

8 **General Description:**

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

10 elections.

11 **Highlighted Provisions:**

12   This bill:

13   ▸   repeals provisions authorizing certain third, fourth, and fifth class municipalities

14 and certain towns to adopt an ordinance that allows a candidate for municipal office

15 to file a nominating petition in lieu of using the convention system;

16   ▸   repeals provisions related to signature requirements for a nominating petition in

17 certain municipalities and towns;

18   ▸   repeals provisions related to the nominating petition requirements in certain

19 municipalities and town; and

20   ▸   makes technical corrections.

21 **Money 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 Laws of Utah 2011, Chapters 17, 327, and 395

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29   *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   [(c)] (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.

Legislative Review Note
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Office of Legislative Research and General Counsel