

**MUNICIPAL ELECTION AMENDMENTS - OFFICE HOURS**

2014 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: John Knotwell**

Senate Sponsor: Todd Weiler

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**LONG TITLE**

**General Description:**

This bill requires a city recorder or town clerk to maintain certain office hours during the municipal candidacy declaration and nomination period.

**Highlighted Provisions:**

This bill:

- requires a city recorder or town clerk to maintain certain office hours during the municipal candidacy declaration and nomination period; and
- makes technical and conforming amendments.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**10-3-301**, as last amended by Laws of Utah 2012, Chapter 251

**20A-9-203**, as last amended by Laws of Utah 2013, Chapters 317 and 402

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

Section 1. Section **10-3-301** is amended to read:

**10-3-301. Notice -- Eligibility and residency requirements for elected municipal**



28 **office -- Mayor and recorder limitations.**

29 (1) (a) On or before February 1 in a year in which there is a municipal general election,  
30 the municipal clerk shall publish a notice that identifies:

31 (i) the municipal offices to be voted on in the municipal general election; and

32 (ii) the dates for filing a declaration of candidacy for the offices identified under  
33 Subsection (1)(a)(i).

34 (b) The municipal clerk shall publish the notice described in Subsection (1)(a):

35 (i) on the Utah Public Notice Website established by Section 63F-1-701; and

36 (ii) in at least one of the following ways:

37 (A) at the principal office of the municipality;

38 (B) in a newspaper of general circulation within the municipality at least once a week  
39 for two successive weeks in accordance with Section 45-1-101;

40 (C) in a newsletter produced by the municipality;

41 (D) on a website operated by the municipality; or

42 (E) with a utility enterprise fund customer's bill.

43 (2) (a) A person filing a declaration of candidacy for a municipal office shall meet the  
44 requirements of Section 20A-9-203.

45 (b) ~~Ĥ~~ **Ĥ** ~~→~~ ~~[The]~~ **(i) Except as provided in Subsection (2)(b)(ii), the** ~~←~~ ~~Ĥ~~ city recorder or  
45a town clerk of each municipality shall maintain office hours 8  
46 a.m. to 5 p.m. on the dates described in Subsections 20A-9-203(2)(a)(i) and (b)(i) unless the  
47 date occurs on a:

48 ~~Ĥ~~ ~~→~~ ~~[(i)]~~ **(A)** ~~←~~ ~~Ĥ~~ Saturday or Sunday; or

49 ~~Ĥ~~ ~~→~~ ~~[(ii)]~~ **(B)** ~~←~~ ~~Ĥ~~ state holiday as listed in Section 63G-1-301.

49a ~~Ĥ~~ ~~→~~ **(ii) If on a regular basis a city recorder or town clerk maintains an office schedule that**  
49b **is less than 40 hours per week, the city recorder or town clerk may comply with Subsection**  
49c **(2)(b)(i) without maintaining office hours by:**

49d **(A) posting the recorder's or clerk's contact information, including a phone number**  
49e **and email address, on the recorder's or clerk's office door, the main door to the municipal**  
49f **offices, and, if available, on the municipal website; and**

49g **(B) being available at that contact information from 8 a.m. to 5 p.m. on the dates**  
49h **described in Subsection (2)(b)(i).** ~~←~~ ~~Ĥ~~

50 (3) Any person elected to municipal office shall be a registered voter in the  
51 municipality in which the person was elected.

52 (4) (a) Each elected officer of a municipality shall maintain residency within the

53 boundaries of the municipality during the officer's term of office.

54 (b) If an elected officer of a municipality establishes a principal place of residence as  
55 provided in Section 20A-2-105 outside the municipality during the officer's term of office, the  
56 office is automatically vacant.

57 (5) If an elected municipal officer is absent from the municipality any time during the  
58 officer's term of office for a continuous period of more than 60 days without the consent of the

59 municipal legislative body, the municipal office is automatically vacant.

60 (b) (a) A mayor of a municipality may not also serve as the municipal recorder or  
61 treasurer.

62 (b) The recorder of a municipality may not also serve as the municipal treasurer.

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

64 **20A-9-203. Declarations of candidacy -- Municipal general elections.**

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

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

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

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

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

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

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

84 (2) (a) A person seeking to become a candidate for a municipal office shall:

85 (i) file a declaration of candidacy, in person with the city recorder or town clerk, during  
86 the office hours described in Section [10-3-301](#) and not later than the close of [~~normal~~] those  
87 office hours, between June 1 and June 7 of any odd-numbered year; and

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

89 (b) Any resident of a municipality may nominate a candidate for a municipal office by:

90 (i) filing a nomination petition with the city recorder or town clerk during the office  
91 hours [~~but~~] described in Section 10-3-301 and not later than the close of [~~normal~~] those office  
92 hours, between June 1 and June 7 of any odd-numbered year; and

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

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

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

98 (ii) require the candidate or person filing the petition to state whether the candidate  
99 meets those requirements.

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

102 (c) If it appears that the prospective candidate meets the requirements of candidacy, the  
103 filing officer shall:

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

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

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

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

114 (A) signing the pledge is voluntary; and

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

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

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

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

120 (ii) if the candidate has filed for a partisan office, provide a certified copy of the

121 candidate's pledge to the chair of the county or state political party of which the candidate is a  
122 member.

123 (4) Notwithstanding the requirement in Subsection (2)(a)(i) to file a declaration of  
124 candidacy in person, a person may designate an agent to file the form described in Subsection  
125 (5) in person with the city recorder or town clerk if:

126 (a) the person is located outside the state during the filing period because:

127 (i) of employment with the state or the United States; or

128 (ii) the person is a member of:

129 (A) the active or reserve components of the Army, Navy, Air Force, Marine Corps, or  
130 Coast Guard of the United States who is on active duty;

131 (B) the Merchant Marine, the commissioned corps of the Public Health Service, or the  
132 commissioned corps of the National Oceanic and Atmospheric Administration of the United  
133 States; or

134 (C) the National Guard on activated status;

135 (b) the person makes the declaration of candidacy described in Subsection (5) to a  
136 person qualified to administer an oath;

137 (c) the person communicates with the city recorder or town clerk using an electronic  
138 device that allows the person and the city recorder or town clerk to see and hear each other; and

139 (d) the person provides the city recorder or town clerk with an email address to which  
140 the filing officer may send the copies described in Subsection (3).

141 (5) (a) The declaration of candidacy shall substantially comply with the following  
142 form:

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

150 \_\_\_\_\_

151 Subscribed and sworn to (or affirmed) before me by \_\_\_\_\_ on this

152 \_\_\_\_\_(month\day\year).

153 (Signed) \_\_\_\_\_ (Clerk or other officer qualified to administer oath)"

154 (b) An agent designated to file a declaration of candidacy under Subsection (4) may not  
155 sign the form described in Subsection (5)(a).

156 (6) (a) A registered voter may be nominated for municipal office by submitting a  
157 petition signed, with a holographic signature, by:

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

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

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

161 "NOMINATION PETITION

162 The undersigned residents of (name of municipality) being 18 years old or older  
163 nominate (name of nominee) to the office of \_\_\_\_ for the (two or four-year term, whichever is  
164 applicable)."

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

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

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

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

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

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

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

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

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

182 (10) A declaration of candidacy or nomination petition filed under this section may not

183 be amended after the expiration of the period for filing a declaration of candidacy.

184 (11) (a) A declaration of candidacy or nomination petition filed under this section is  
185 valid unless a written objection is filed with the clerk within five days after the last day for  
186 filing.

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

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

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

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

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

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

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

199 (12) Any person who filed a declaration of candidacy and was nominated, and any  
200 person who was nominated by a nomination petition, may, any time up to 23 days before the  
201 election, withdraw the nomination by filing a written affidavit with the clerk.

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**Legislative Review Note**  
**as of 7-9-13 9:33 AM**

**Office of Legislative Research and General Counsel**