

MUNICIPAL ELECTION AMENDMENTS

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: R. Curt Webb

Senate Sponsor: J. Stuart Adams

LONG TITLE

General Description:

This bill modifies provisions related to a municipal election.

Highlighted Provisions:

This bill:

- ▶ changes the deadline for a person to file a declaration of candidacy in an election from June 15 of any odd-numbered year to June 7 of any odd-numbered year;

- ▶ changes the deadline for the local district clerk to certify the names of local district board candidates from July 20 of the municipal election year to June 12 of the municipal election year;

- ▶ changes the deadline for qualifying as a municipal political party from at least 55 days before the date of the municipal primary election to May 31 of any odd-numbered year;

- ▶ changes the deadline for filing a declaration of candidacy to become a valid write-in candidate from 45 days before a municipal general election to 60 days before a municipal general election; and

- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

30 17B-1-306, as last amended by Laws of Utah 2012, Chapter 97

31 20A-9-203, as last amended by Laws of Utah 2012, Chapter 294

32 20A-9-404, as last amended by Laws of Utah 2012, Chapter 251

33 20A-9-601, as last amended by Laws of Utah 2011, Chapter 40



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

36 Section 1. Section 17B-1-306 is amended to read:

37 **17B-1-306. Local district board -- Election procedures.**

38 (1) Except as provided in Subsection (11), each elected board member shall be selected
39 as provided in this section.

40 (2) (a) Each election of a local district board member shall be held:

41 (i) at the same time as the municipal general election; and

42 (ii) at polling places designated by the county clerk in consultation with the local
43 district for each county in which the local district is located, which polling places shall coincide
44 with municipal general election polling places whenever feasible.

45 (b) (i) Subject to Subsections (4)(f) and (g), the number of polling places under
46 Subsection (2)(a)(ii) in an election of board members of an irrigation district shall be one
47 polling place per division of the district, designated by the district board.

48 (ii) Each polling place designated by an irrigation district board under Subsection
49 (2)(b)(i) shall coincide with a polling place designated by the county clerk under Subsection
50 (2)(a)(ii).

51 (3) (a) The clerk of each local district with a board member position to be filled at the
52 next municipal general election shall provide notice of:

53 (i) each elective position of the local district to be filled at the next municipal general
54 election;

55 (ii) the constitutional and statutory qualifications for each position; and

56 (iii) the dates and times for filing a declaration of candidacy.

57 (b) The notice required under Subsection (3)(a) shall be:

58 (i) posted in at least five public places within the local district at least 10 days before
59 the first day for filing a declaration of candidacy; or

60 (ii) (A) published in a newspaper of general circulation within the local district at least
61 three but no more than 10 days before the first day for filing a declaration of candidacy; and

62 (B) published, in accordance with Section 45-1-101, for 10 days before the first day for
63 filing a declaration of candidacy.

64 (4) (a) To become a candidate for an elective local district board position, the
65 prospective candidate shall file a declaration of candidacy in person with the local district,
66 during office hours and not later than the close of normal office hours between June 1 and June
67 ~~[+5]~~ 7 of any odd-numbered year.

68 (b) When June ~~[+5]~~ 7 is a Saturday, Sunday, or holiday, the filing time shall be
69 extended until the close of normal office hours on the following regular business day.

70 (c) (i) Before the filing officer may accept any declaration of candidacy, the filing
71 officer shall:

72 (A) read to the prospective candidate the constitutional and statutory qualification
73 requirements for the office that the candidate is seeking; and

74 (B) require the candidate to state whether or not the candidate meets those
75 requirements.

76 (ii) If the prospective candidate does not meet the qualification requirements for the
77 office, the filing officer may not accept the declaration of candidacy.

78 (iii) If it appears that the prospective candidate meets the requirements of candidacy,
79 the filing officer shall accept the declaration of candidacy.

80 (d) The declaration of candidacy shall substantially comply with the following form:

81 "I, (print name) _____, being first duly sworn, say that I reside at (Street)
82 _____, City of _____, County of _____, State of Utah,
83 (Zip Code) _____, (Telephone Number, if any) _____; that I meet the qualifications
84 for the office of board of trustees member for _____ (state the name of
85 the local district); that I am a candidate for that office to be voted upon at the next election, and

86 I hereby request that my name be printed upon the official ballot for that election.

87 (Signed) _____

88 Subscribed and sworn to (or affirmed) before me by _____ on this _____ day
89 of _____, _____.

90 (Signed) _____

91 (Clerk or Notary Public)"

92 (e) Each person wishing to become a valid write-in candidate for an elective local
93 district board position is governed by Section 20A-9-601.

94 (f) If at least one person does not file a declaration of candidacy as required by this
95 section, a person shall be appointed to fill that board position by following the procedures and
96 requirements for appointment established in Section 20A-1-512.

97 (g) If only one candidate files a declaration of candidacy and there is no write-in
98 candidate who complies with Section 20A-9-601, the board, in accordance with Section
99 20A-1-206, may:

100 (i) consider the candidate to be elected to the position; and

101 (ii) cancel the election.

102 (5) (a) A primary election may be held if:

103 (i) the election is authorized by the local district board; and

104 (ii) the number of candidates for a particular local board position or office exceeds
105 twice the number of persons needed to fill that position or office.

106 (b) The primary election shall be conducted:

107 (i) on the same date as the municipal primary election, as provided for in Section
108 20A-1-201.5; and

109 (ii) according to the procedures for municipal primary elections provided under Title
110 20A, Election Code.

111 (6) (a) Except as provided in Subsection (6)(c), the local district clerk shall certify the
112 candidate names to the clerk of each county in which the local district is located no later than
113 [~~July 20~~] June 12 of the municipal election year.

114 (b) (i) Except as provided in Subsection (6)(c) and in accordance with Section
115 20A-6-305, the clerk of each county in which the local district is located shall coordinate the
116 placement of the name of each candidate for local district office in the nonpartisan section of
117 the municipal general election ballot with the municipal election clerk.

118 (ii) If consolidation of the local district election ballot with the municipal general
119 election ballot is not feasible, the county clerk shall provide for a separate local district election
120 ballot to be administered by poll workers at polling locations designated under Subsection (2).

121 (c) (i) Subsections (6)(a) and (b) do not apply to an election of a member of the board
122 of an irrigation district established under Chapter 2a, Part 5, Irrigation District Act.

123 (ii) (A) Subject to Subsection (6)(c)(ii)(B), the board of each irrigation district shall
124 prescribe the form of the ballot for each board member election.

125 (B) Each ballot for an election of an irrigation district board member shall be in a
126 nonpartisan format.

127 (C) The name of each candidate shall be placed on the ballot in the order specified
128 under Section 20A-6-305.

129 (7) (a) Each voter at an election for a board of trustees member of a local district shall:

130 (i) be a registered voter within the district, except for an election of:

131 (A) an irrigation district board of trustees member; or

132 (B) a basic local district board of trustees member who is elected by property owners;

133 and

134 (ii) meet the requirements to vote established by the district.

135 (b) Each voter may vote for as many candidates as there are offices to be filled.

136 (c) The candidates who receive the highest number of votes are elected.

137 (8) Except as otherwise provided by this section, the election of local district board
138 members is governed by Title 20A, Election Code.

139 (9) (a) A person elected to serve on a local district board shall serve a four-year term,
140 beginning at noon on the January 1 after the person's election.

141 (b) A person elected shall be sworn in as soon as practical after January 1.

142 (10) (a) Except as provided in Subsection (10)(b), each local district shall reimburse
143 the county or municipality holding an election under this section for the costs of the election
144 attributable to that local district.

145 (b) Each irrigation district shall bear its own costs of each election it holds under this
146 section.

147 (11) This section does not apply to an improvement district that provides electric or gas
148 service.

149 (12) Except as provided in Subsection 20A-3-605(1)(b), the provisions of Title 20A,
150 Chapter 3, Part 6, Early Voting, do not apply to an election under this section.

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

152 **20A-9-203. Declarations of candidacy -- Municipal general elections.**

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

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

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

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

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

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

168 (c) In accordance with Utah Constitution Article IV, Section 6, any mentally
169 incompetent person, any person convicted of a felony, or any person convicted of treason or a

170 crime against the elective franchise may not hold office in this state until the right to hold
171 elective office is restored under Section 20A-2-101.3 or 20A-2-101.5.

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

173 (i) file a declaration of candidacy, in person with the city recorder or town clerk, during
174 office hours and not later than the close of normal office hours, between June 1 and June [~~15~~] 7
175 of any odd-numbered year; and

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

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

178 (i) filing a nomination petition with the city recorder or town clerk during office hours,
179 but not later than the close of normal office hours, between June 1 and June [~~15~~] 7 of any
180 odd-numbered year; and

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

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

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

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

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

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

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

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

197 (iii) provide the candidate with a copy of Section 20A-7-801 regarding the Statewide

198 Electronic Voter Information Website Program and inform the candidate of the submission
199 deadline under Subsection 20A-7-801(4)(a);

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

202 (A) signing the pledge is voluntary; and

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

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

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

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

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

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

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

219 _____

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

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

223 (5) (a) A registered voter may be nominated for municipal office by submitting a
224 petition signed, with a holographic signature, by:

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

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

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

228 "NOMINATION PETITION

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

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

234 (6) If the declaration of candidacy or nomination petition fails to state whether the
235 nomination is for the two or four-year term, the clerk shall consider the nomination to be for
236 the four-year term.

237 (7) (a) The clerk shall verify with the county clerk that all candidates are registered
238 voters.

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

241 (8) Immediately after expiration of the period for filing a declaration of candidacy, the
242 clerk shall:

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

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

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

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

249 (9) A declaration of candidacy or nomination petition filed under this section may not
250 be amended after the expiration of the period for filing a declaration of candidacy.

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

254 (b) If an objection is made, the clerk shall:
255 (i) mail or personally deliver notice of the objection to the affected candidate
256 immediately; and
257 (ii) decide any objection within 48 hours after it is filed.
258 (c) If the clerk sustains the objection, the candidate may correct the problem by
259 amending the declaration or petition within three days after the objection is sustained or by
260 filing a new declaration within three days after the objection is sustained.
261 (d) (i) The clerk's decision upon objections to form is final.
262 (ii) The clerk's decision upon substantive matters is reviewable by a district court if
263 prompt application is made to the district court.
264 (iii) The decision of the district court is final unless the Supreme Court, in the exercise
265 of its discretion, agrees to review the lower court decision.
266 (11) Any person who filed a declaration of candidacy and was nominated, and any
267 person who was nominated by a nomination petition, may, any time up to 23 days before the
268 election, withdraw the nomination by filing a written affidavit with the clerk.
269 Section 3. Section **20A-9-404** is amended to read:
270 **20A-9-404. Municipal primary elections.**
271 (1) (a) Except as otherwise provided in this section, candidates for municipal office in
272 all municipalities shall be nominated at a municipal primary election.
273 (b) Municipal primary elections shall be held:
274 (i) consistent with Section 20A-1-201.5, on the second Tuesday following the first
275 Monday in the August before the regular municipal election; and
276 (ii) whenever possible, at the same polling places as the regular municipal election.
277 (2) If the number of candidates for a particular municipal office does not exceed twice
278 the number of persons needed to fill that office, a primary election for that office may not be
279 held and the candidates are considered nominated.
280 (3) (a) For purposes of this Subsection (3), "convention" means an organized assembly
281 of voters or delegates.

282 (b) (i) By ordinance adopted before the May 1 that falls before a regular municipal
283 election, any third, fourth, or fifth class city or town may exempt itself from a primary election
284 by providing that the nomination of candidates for municipal office to be voted upon at a
285 municipal election be nominated by a political party convention or committee.

286 (ii) Any primary election exemption ordinance adopted under the authority of this
287 subsection remains in effect until repealed by ordinance.

288 (c) (i) A convention or committee may not nominate more than one group of
289 candidates or have placed on the ballot more than one group of candidates for the municipal
290 offices to be voted upon at the municipal election.

291 (ii) A convention or committee may nominate a person who has been nominated by a
292 different convention or committee.

293 (iii) A political party may not have more than one group of candidates placed upon the
294 ballot and may not group the same candidates on different tickets by the same party under a
295 different name or emblem.

296 (d) (i) The convention or committee shall prepare a certificate of nomination for each
297 person nominated.

298 (ii) The certificate of nomination shall:

299 (A) contain the name of the office for which each person is nominated, the name, post
300 office address, and, if in a city, the street number of residence and place of business, if any, of
301 each person nominated;

302 (B) designate in not more than five words the political party that the convention or
303 committee represents;

304 (C) contain a copy of the resolution passed at the convention that authorized the
305 committee to make the nomination;

306 (D) contain a statement certifying that the name of the candidate nominated by the
307 political party will not appear on the ballot as a candidate for any other political party;

308 (E) be signed by the presiding officer and secretary of the convention or committee;
309 and

310 (F) contain a statement identifying the residence and post office address of the
311 presiding officer and secretary and certifying that the presiding officer and secretary were
312 officers of the convention or committee and that the certificates are true to the best of their
313 knowledge and belief.

314 (iii) Certificates of nomination shall be filed with the clerk not later than 80 days
315 before the municipal general election.

316 (e) A committee appointed at a convention, if authorized by an enabling resolution,
317 may also make nominations or fill vacancies in nominations made at a convention.

318 (f) The election ballot shall substantially comply with the form prescribed in Title 20A,
319 Chapter 6, Part 4, Ballot Form Requirements for Municipal Elections, but the party name shall
320 be included with the candidate's name.

321 (4) (a) Any third, fourth, or fifth class city may adopt an ordinance before the May 1
322 that falls before the regular municipal election that:

323 (i) exempts the city from the other methods of nominating candidates to municipal
324 office provided in this section; and

325 (ii) provides for a partisan primary election method of nominating candidates as
326 provided in this Subsection (4).

327 (b) (i) Any party that was a registered political party at the last regular general election
328 or regular municipal election is a municipal political party under this section.

329 (ii) Any political party may qualify as a municipal political party by presenting a
330 petition to the city recorder that:

331 (A) is signed, with a holographic signature, by registered voters within the municipality
332 equal to at least 20% of the number of votes cast for all candidates for mayor in the last
333 municipal election at which a mayor was elected;

334 (B) is filed with the city recorder [~~at least 55 days before the date of the municipal~~
335 ~~primary election~~] by May 31 of any odd-numbered year;

336 (C) is substantially similar to the form of the signature sheets described in Section
337 20A-7-303; and

338 (D) contains the name of the municipal political party using not more than five words.

339 (c) (i) If the number of candidates for a particular office does not exceed twice the
340 number of offices to be filled at the regular municipal election, no partisan primary election for
341 that office shall be held and the candidates are considered to be nominated.

342 (ii) If the number of candidates for a particular office exceeds twice the number of
343 offices to be filled at the regular municipal election, those candidates for municipal office shall
344 be nominated at a partisan primary election.

345 (d) The clerk shall ensure that:

346 (i) the partisan municipal primary ballot is similar to the ballot forms required by
347 Sections 20A-6-401 and 20A-6-401.1;

348 (ii) the candidates for each municipal political party are listed in one or more columns
349 under their party name and emblem;

350 (iii) the names of candidates of all parties are printed on the same ballot, but under
351 their party designation;

352 (iv) every ballot is folded and perforated so as to separate the candidates of one party
353 from those of the other parties and so as to enable the elector to separate the part of the ballot
354 containing the names of the party of his choice from the remainder of the ballot; and

355 (v) the side edges of all ballots are perforated so that the outside sections of the ballots,
356 when detached, are similar in appearance to inside sections when detached.

357 (e) After marking a municipal primary ballot, the voter shall:

358 (i) detach the part of the ballot containing the names of the candidates of the party he
359 has voted from the rest of the ballot;

360 (ii) fold the detached part so that its face is concealed and deposit it in the ballot box;
361 and

362 (iii) fold the remainder of the ballot containing the names of the candidates of the
363 parties for whom the elector did not vote and deposit it in the blank ballot box.

364 (f) Immediately after the canvass, the election judges shall, without examination,
365 destroy the tickets deposited in the blank ballot box.

366 Section 4. Section **20A-9-601** is amended to read:

367 **20A-9-601. Qualifying as a write-in candidate.**

368 (1) (a) Each person wishing to become a valid write-in candidate shall file a declaration
369 of candidacy in person or through a designated agent for a candidate for President or Vice
370 President of the United States with the appropriate filing officer not later than 30 days before
371 the regular general election or [~~45~~] 60 days before a municipal general election in which the
372 person intends to be a write-in candidate.

373 (b) (i) The filing officer shall:

374 (A) read to the candidate the constitutional and statutory requirements for the office;

375 and

376 (B) ask the candidate whether or not the candidate meets the requirements.

377 (ii) If the candidate cannot meet the requirements of office, the filing officer may not
378 accept the write-in candidate's declaration of candidacy.

379 (2) By November 1 of each regular general election year, the lieutenant governor shall
380 certify to each county clerk the names of all write-in candidates who filed their declaration of
381 candidacy with the lieutenant governor.