

Senate File 2202 - Introduced

SENATE FILE 2202
BY COMMITTEE ON STATE
GOVERNMENT

(SUCCESSOR TO SSB 3056)

A BILL FOR

1 An Act relating to city elections.

2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 44.4, subsection 1, Code 2014, is amended
2 to read as follows:

3 1. Nominations made pursuant to this chapter and chapter
4 45 which are required to be filed in the office of the state
5 commissioner shall be filed in that office not more than
6 ninety-nine days nor later than 5:00 p.m. on the eighty-first
7 day before the date of the general election to be held in
8 November. Nominations made for a special election called
9 pursuant to section 69.14 shall be filed by 5:00 p.m. not less
10 than twenty-five days before the date of an election called
11 upon at least forty days' notice and not less than fourteen
12 days before the date of an election called upon at least
13 eighteen days' notice. Nominations made for a special election
14 called pursuant to section 69.14A shall be filed by 5:00 p.m.
15 not less than twenty-five days before the date of the election.
16 Nominations made pursuant to this chapter and chapter 45 which
17 are required to be filed in the office of the commissioner
18 shall be filed in that office not more than ninety-two days
19 nor later than 5:00 p.m. on the sixty-ninth day before the
20 date of the general election. Nominations made pursuant to
21 this chapter or chapter 45 for city office shall be filed not
22 more than seventy-two days nor later than 5:00 p.m. on the
23 forty-seventh day before the city election with the ~~city clerk~~
24 county commissioner of elections responsible under section 47.2
25 for conducting elections held for the city, who shall process
26 them as provided by law.

27 Sec. 2. Section 44.4, subsection 2, paragraph a,
28 subparagraphs (2) and (3), Code 2014, are amended to read as
29 follows:

30 (2) Those filed with the commissioner, not less than
31 sixty-four days before the date of the election, except as
32 provided in subparagraph (3).

33 (3) Those filed with the ~~city clerk~~ commissioner for an
34 elective city office, at least forty-two days before the
35 regularly scheduled or special city election. However, for

1 those cities that may be required to hold a primary election,
2 at least sixty-three days before the regularly scheduled or
3 special city election.

4 Sec. 3. Section 44.7, Code 2014, is amended to read as
5 follows:

6 **44.7 Hearing before commissioner.**

7 ~~Objections~~ Except as otherwise provided in section 44.8,
8 objections filed with the commissioner shall be considered by
9 the county auditor, county treasurer, and county attorney,
10 and a majority decision shall be final; ~~but.~~ However, if the
11 objection is to the certificate of nomination of one or more
12 of the above named county officers, the officer or officers
13 objected to shall not pass upon the objection, but their places
14 shall be filled, respectively, by the chairperson of the board
15 of supervisors, the sheriff, and the county recorder.

16 Sec. 4. Section 44.8, Code 2014, is amended to read as
17 follows:

18 **44.8 Hearing before mayor.**

19 1. Objections filed with the city clerk pursuant to
20 section 362.4 or with the commissioner for an elective city
21 office shall be considered by the mayor and clerk and one
22 member of the council chosen by the council by ballot, and
23 a majority decision shall be final; ~~but.~~ However, if the
24 objection is to the certificate of nomination of either of
25 those city officials, that official shall not pass upon ~~said~~
26 the objection, but the official's place shall be filled by a
27 member of the council against whom no such objection exists,
28 chosen as above provided.

29 2. The hearing shall be held within twenty-four hours of the
30 receipt of the objection if a primary election must be held for
31 the office sought by the candidate against whom the objection
32 has been filed.

33 Sec. 5. Section 44.9, subsections 2 and 6, Code 2014, are
34 amended to read as follows:

35 2. In the office of the proper commissioner, at least

1 sixty-four days before the date of the election, except as
2 otherwise provided in subsection 6.

3 6. In the office of the proper ~~city clerk~~ commissioner, at
4 least forty-two days before the regularly scheduled or special
5 city election. However, for those cities that may be required
6 to hold a primary election, at least sixty-three days before a
7 regularly scheduled or special city election.

8 Sec. 6. Section 44.11, Code 2014, is amended to read as
9 follows:

10 **44.11 Vacancies filled.**

11 If a candidate named under this chapter withdraws before the
12 deadline established in section 44.9, declines a nomination,
13 or dies before election day, or if a certificate of nomination
14 is held insufficient or inoperative by the officer with whom
15 it is required to be filed, or in case any objection made
16 to a certificate of nomination, or to the eligibility of any
17 candidate named in the certificate, is sustained by the board
18 appointed to determine such questions, the vacancy or vacancies
19 may be filled by the convention, or caucus, or in such manner
20 as such convention or caucus has previously provided. The
21 vacancy or vacancies shall be filled not less than seventy-four
22 days before the election in the case of nominations required to
23 be filed with the state commissioner, not less than sixty-four
24 days before the election in the case of nominations required
25 to be filed with the commissioner, not less than thirty-five
26 days before the election in the case of nominations required
27 to be filed in the office of the school board secretary,
28 and not less than forty-two days before the election in the
29 case of nominations required to be filed with the ~~city clerk~~
30 commissioner for city elections.

31 Sec. 7. Section 372.13, subsection 2, paragraph a, Code
32 2014, is amended to read as follows:

33 a. (1) By appointment by the remaining members of the
34 council, except that if the remaining members do not constitute
35 a quorum of the full membership, paragraph "b" shall be

1 followed. The appointment shall be made within sixty days
 2 after the vacancy occurs and shall be for the period until the
 3 next pending election as defined in section 69.12, and shall
 4 be made within forty days after the vacancy occurs regular
 5 city election described in section 376.1, unless there is an
 6 intervening special election in that city, in which event
 7 the election for the office shall be placed on the ballot
 8 at such special election. If the council fails to make an
 9 appointment within sixty days as required by this subsection,
 10 the city clerk shall give notice of the vacancy to the county
 11 commissioner and the county commissioner shall call a special
 12 election to fill the vacancy at the earliest practicable date
 13 but no fewer than thirty-two days after the notice is received
 14 by the county commissioner.

15 (2) If the council chooses to proceed under this paragraph,
 16 it shall publish notice in the manner prescribed by section
 17 362.3, stating that the council intends to fill the vacancy
 18 by appointment but that the electors of the city or ward, as
 19 the case may be, have the right to file a petition requiring
 20 that the vacancy be filled by a special election. The council
 21 may publish notice in advance if an elected official submits
 22 a resignation to take effect at a future date. The council
 23 may make an appointment to fill the vacancy after the notice
 24 is published or after the vacancy occurs, whichever is later.
 25 However, if within fourteen days after publication of the
 26 notice or within fourteen days after the appointment is made,
 27 there is filed with the city clerk a petition which requests a
 28 special election to fill the vacancy, an appointment to fill
 29 the vacancy is temporary and the council shall call a special
 30 election to fill the vacancy permanently, under paragraph "b".
 31 The number of signatures of eligible electors of a city for a
 32 valid petition shall be determined as follows:

33 ~~(1)~~ (a) For a city with a population of ten thousand or
 34 less, at least two hundred signatures or at least the number of
 35 signatures equal to fifteen percent of the voters who voted for

1 candidates for the office at the preceding regular election at
2 which the office was on the ballot, whichever number is fewer.

3 ~~(2)~~ (b) For a city with a population of more than ten
4 thousand but not more than fifty thousand, at least one
5 thousand signatures or at least the number of signatures equal
6 to fifteen percent of the voters who voted for candidates for
7 the office at the preceding regular election at which the
8 office was on the ballot, whichever number is fewer.

9 ~~(3)~~ (c) For a city with a population of more than fifty
10 thousand, at least two thousand signatures or at least the
11 number of signatures equal to ten percent of the voters who
12 voted for candidates for the office at the preceding regular
13 election at which the office was on the ballot, whichever
14 number is fewer.

15 ~~(4)~~ (d) The minimum number of signatures for a valid
16 petition pursuant to ~~subparagraphs (1)~~ subparagraph divisions
17 (a) through (3) (c) shall not be fewer than ten. In
18 determining the minimum number of signatures required, if at
19 the last preceding election more than one position was to be
20 filled for the office in which the vacancy exists, the number
21 of voters who voted for candidates for the office shall be
22 determined by dividing the total number of votes cast for the
23 office by the number of seats to be filled.

24 Sec. 8. Section 376.4, subsection 1, paragraph a, Code 2014,
25 is amended to read as follows:

26 a. An eligible elector of a city may become a candidate
27 for an elective city office by filing with the ~~city clerk~~
28 county commissioner of elections responsible under section 47.2
29 for conducting elections held for the city a valid petition
30 requesting that the elector's name be placed on the ballot
31 for that office. The petition must be filed not more than
32 seventy-one days and not less than forty-seven days before the
33 date of the election, and must be signed by eligible electors
34 equal in number to at least two percent of those who voted to
35 fill the same office at the last regular city election, but not

1 less than ten persons. However, for those cities which may be
2 required to hold a primary election, the petition must be filed
3 not more than eighty-five days and not less than sixty-eight
4 days before the date of the regular city election. Nomination
5 petitions shall be filed not later than 5:00 p.m. on the last
6 day for filing.

7 Sec. 9. Section 376.4, subsections 3, 4, and 5, Code 2014,
8 are amended to read as follows:

9 ~~3. If the city clerk is not readily available during normal~~
10 ~~office hours, the city clerk shall designate other employees or~~
11 ~~officials of the city who are ordinarily available to accept~~
12 ~~nomination papers under this section.~~ On the final date for
13 filing nomination papers the office of the ~~city clerk~~ county
14 commissioner shall remain open until 5:00 p.m.

15 4. The ~~city clerk~~ county commissioner shall review each
16 petition and affidavit of candidacy for completeness following
17 the standards in section 45.5 and shall accept the petition
18 for filing if on its face it appears to have the requisite
19 number of signatures and if it is timely filed. The ~~city~~
20 ~~clerk~~ county commissioner shall note upon each petition and
21 affidavit accepted for filing the date and time that they were
22 filed. The ~~clerk~~ county commissioner shall return any rejected
23 nomination papers to the person on whose behalf the nomination
24 papers were filed.

25 5. Nomination papers filed with the ~~city clerk~~ county
26 commissioner shall be available for public inspection.

27 5A. The city clerk shall deliver ~~all nomination papers~~
28 ~~together with~~ the text of any public measure being submitted by
29 the city council to the electorate to the county commissioner
30 of elections ~~on the day following~~ no later than the last day
31 on which nomination petitions can be filed, and not later than
32 5:00 p.m. on that day.

33 Sec. 10. Section 376.11, subsections 3, 4, and 5, Code 2014,
34 are amended to read as follows:

35 3. In city primary elections any person who receives

1 write-in votes shall execute an affidavit in substantially the
2 form required by section 45.3, and file it with the county
3 commissioner of elections ~~or the city clerk~~ not later than 5:00
4 p.m. on the day after the canvass of the primary election.
5 If any person who received write-in votes fails to file the
6 affidavit at the time required, the county commissioner shall
7 disregard the write-in votes cast for that person. A notation
8 shall be made on the abstract of votes showing which persons
9 who received write-in votes filed affidavits. The total number
10 of votes cast for each office on the ballot shall be amended by
11 subtracting the write-in votes of those candidates who failed
12 to file the affidavit. It is not necessary for a candidate
13 whose name was printed upon the ballot to file an affidavit.
14 Of the remaining candidates, those who receive the highest
15 number of votes to the extent of twice the number of unfilled
16 positions shall be placed on the ballot for the regular city
17 election as candidates for that office.

18 4. In cities in which the city council has chosen a runoff
19 election in lieu of a primary, if a person who was elected
20 by write-in votes chooses not to accept the office by filing
21 a resignation notice with the ~~city clerk~~ or commissioner of
22 elections not later than 5:00 p.m. on the day following the
23 canvass, all remaining persons who received write-in votes and
24 who wish to be considered candidates for the runoff election
25 shall execute an affidavit in substantially the form required
26 by section 45.3 and file it with the county commissioner ~~or~~
27 ~~the city clerk~~ not later than 5:00 p.m. of the fourth day
28 following the canvass. If a person receiving write-in votes
29 fails to file the affidavit at the time required, the county
30 commissioner of elections shall disregard the write-in votes
31 cast for that person. The abstract of votes shall be amended
32 to show that the person who was declared elected declined the
33 office and a notation shall be made next to the names of those
34 persons who did not file the affidavit. A runoff election
35 shall be held with the remaining candidates who have the

1 highest number of votes to the extent of twice the number of
2 unfilled positions.

3 5. In a city in which the council has chosen a runoff
4 election, if no person was declared elected for an office, all
5 persons who received write-in votes shall execute an affidavit
6 in substantially the form required by section 45.3 and file it
7 with the county commissioner of elections ~~or the city clerk~~ not
8 later than 5:00 p.m. on the day following the canvass of votes.
9 If any person who received write-in votes fails to file the
10 affidavit, the county commissioner of elections shall disregard
11 the write-in votes cast for that person. The abstract of votes
12 shall be amended to note which of the write-in candidates
13 failed to file the affidavit. A runoff election shall be held
14 with the remaining candidates who have the highest number of
15 votes to the extent of twice the number of unfilled positions.

16 EXPLANATION

17 The inclusion of this explanation does not constitute agreement with
18 the explanation's substance by the members of the general assembly.

19 This bill relates to city elections.

20 The bill requires that if a vacancy in an elective city
21 office is filled by appointment of the remaining members of
22 the city council, that such appointment be for the period
23 until the next regular city election, as defined in statute.
24 If, however, there is an intervening special election in that
25 city, then the election for the office shall be placed on the
26 ballot at the special election. The bill requires that if
27 an appointment is not made within 60 days after the vacancy
28 occurs, the county commissioner of elections shall call a
29 special election to fill the vacancy.

30 The bill further requires that nomination petitions and
31 affidavits of candidacy for elective city office, withdrawals
32 of such nominations, and objections to nominations be filed
33 with the county commissioner of elections responsible for
34 conducting elections for the city.