

**Senate Study Bill 3069 - Introduced**

SENATE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE ON  
STATE GOVERNMENT BILL BY  
CHAIRPERSON DANIELSON)

**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 376.1, Code 2014, is amended to read as  
25 follows:

26 **376.1 City election held — absentee ballot elections**  
27 **authorized.**

28 1. A city shall hold a regular city election on the first  
29 Tuesday after the first Monday in November of each odd-numbered  
30 year. A city shall hold regular, special, primary, or runoff  
31 city elections as provided by state law.

32 2. The mayor or council shall give notice of any special  
33 election to the county commissioner of elections. The county  
34 commissioner of elections shall publish notice of any city  
35 election and conduct the election pursuant to the provisions of

1 chapters 39 to 53, except as otherwise specifically provided  
2 in chapters 362 to 392. The results of any election shall be  
3 canvassed by the county board of supervisors and certified  
4 by the county commissioner of elections to the mayor and the  
5 council of the city for which the election is held.

6 3. a. The council of a city with a population of two  
7 hundred or less according to the most recent federal decennial  
8 census may adopt an ordinance providing that elections be  
9 conducted by absentee ballot. If the city council adopts  
10 such an ordinance, the clerk shall notify the commissioner  
11 of elections of the adoption of the ordinance, and the  
12 commissioner shall mail an absentee ballot application form  
13 by forwardable mail to each registered voter within the city  
14 who is on active status pursuant to section 48A.37 no fewer  
15 than twenty-five days before each regular city election or  
16 special election for the city. The commissioner shall also  
17 enclose a postage paid return envelope and a notice in the form  
18 prescribed by the state commissioner informing the voter that  
19 voting in person on election day will also be available at the  
20 commissioner's office during the time the polls are open. The  
21 commissioner may designate one additional site as an election  
22 day polling place for a city that adopts an ordinance pursuant  
23 to this subsection. The location of the additional polling  
24 place shall be included in the notice to the voter.

25 b. The additional polling place designated under this  
26 subsection is subject to the requirements of section 49.21  
27 relating to accessibility to persons with disabilities  
28 and relating to the posting of signs. The location of the  
29 additional polling place shall be published by the county  
30 commissioner of elections as required by section 49.53.

31 c. The provisions of chapter 53, insofar as applicable,  
32 shall apply to absentee ballot elections authorized under this  
33 subsection.

34 Sec. 9. Section 376.4, subsection 1, paragraph a, Code 2014,  
35 is amended to read as follows:

1 a. An eligible elector of a city may become a candidate  
2 for an elective city office by filing with the ~~city clerk~~  
3 county commissioner of elections responsible under section 47.2  
4 for conducting elections held for the city a valid petition  
5 requesting that the elector's name be placed on the ballot  
6 for that office. The petition must be filed not more than  
7 seventy-one days and not less than forty-seven days before the  
8 date of the election, and must be signed by eligible electors  
9 equal in number to at least two percent of those who voted to  
10 fill the same office at the last regular city election, but not  
11 less than ten persons. However, for those cities which may be  
12 required to hold a primary election, the petition must be filed  
13 not more than eighty-five days and not less than sixty-eight  
14 days before the date of the regular city election. Nomination  
15 petitions shall be filed not later than 5:00 p.m. on the last  
16 day for filing.

17 Sec. 10. Section 376.4, subsections 3, 4, and 5, Code 2014,  
18 are amended to read as follows:

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

25 4. The ~~city clerk~~ county commissioner shall review each  
26 petition and affidavit of candidacy for completeness following  
27 the standards in section 45.5 and shall accept the petition  
28 for filing if on its face it appears to have the requisite  
29 number of signatures and if it is timely filed. The ~~city~~  
30 ~~clerk~~ county commissioner shall note upon each petition and  
31 affidavit accepted for filing the date and time that they were  
32 filed. The ~~clerk~~ county commissioner shall return any rejected  
33 nomination papers to the person on whose behalf the nomination  
34 papers were filed.

35 5. Nomination papers filed with the ~~city clerk~~ county



1 commissioner shall be available for public inspection.

2 5A. The city clerk shall deliver ~~all nomination papers~~  
3 ~~together with~~ the text of any public measure being submitted by  
4 the city council to the electorate to the county commissioner  
5 of elections ~~on the day following~~ no later than the last day  
6 on which nomination petitions can be filed, and not later than  
7 5:00 p.m. on that day.

8 Sec. 11. Section 376.11, subsections 3, 4, and 5, Code 2014,  
9 are amended to read as follows:

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

28 4. In cities in which the city council has chosen a runoff  
29 election in lieu of a primary, if a person who was elected  
30 by write-in votes chooses not to accept the office by filing  
31 a resignation notice with the ~~city clerk~~ or commissioner of  
32 elections not later than 5:00 p.m. on the day following the  
33 canvass, all remaining persons who received write-in votes and  
34 who wish to be considered candidates for the runoff election  
35 shall execute an affidavit in substantially the form required

1 by section 45.3 and file it with the county commissioner ~~or~~  
2 ~~the city clerk~~ not later than 5:00 p.m. of the fourth day  
3 following the canvass. If a person receiving write-in votes  
4 fails to file the affidavit at the time required, the county  
5 commissioner of elections shall disregard the write-in votes  
6 cast for that person. The abstract of votes shall be amended  
7 to show that the person who was declared elected declined the  
8 office and a notation shall be made next to the names of those  
9 persons who did not file the affidavit. A runoff election  
10 shall be held with the remaining candidates who have the  
11 highest number of votes to the extent of twice the number of  
12 unfilled positions.

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

26 EXPLANATION

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

29 This bill relates to city elections.

30 The bill requires that if a vacancy in an elective city  
31 office is filled by appointment of the remaining members of  
32 the city council, that such appointment be for the period  
33 until the next regular city election, as defined in statute.  
34 If, however, there is an intervening special election in that  
35 city, then the election for the office shall be placed on the

1 ballot at the special election. The bill requires that if  
2 an appointment is not made within 60 days after the vacancy  
3 occurs, the county commissioner of elections shall call a  
4 special election to fill the vacancy.

5 The bill allows cities with populations of 200 or less to  
6 adopt an ordinance providing that city elections be conducted  
7 by absentee ballot. The bill requires the county commissioner  
8 of elections responsible for conducting elections for such a  
9 city to mail an absentee ballot application form by forwardable  
10 mail to each active status registered voter within the city  
11 no fewer than 25 days before each regular city election or  
12 special election for that city. The bill requires that the  
13 county commissioner of elections also enclose a postage paid  
14 return envelope and a notice that in-person voting will also  
15 be available at the county commissioner's office on the day of  
16 the election and, if applicable, the location of the additional  
17 polling place. The bill allows the county commissioner to  
18 designate one additional election day polling place for such  
19 cities.

20 The bill further requires that nomination petitions and  
21 affidavits of candidacy for elective city office, withdrawals  
22 of such nominations, and objections to nominations be filed  
23 with the county commissioner of elections responsible for  
24 conducting elections for the city.