

**20A-4-403 Election contest -- Petition and response.**

- (1)
  - (a) In contesting the results of all elections, except for primary elections and bond elections, a registered voter shall contest the right of any person declared elected to any office by filing a verified written complaint with the district court of the county in which he resides within 40 days after the canvass.
  - (b) The complaint shall include:
    - (i) the name of the party contesting the election;
    - (ii) a statement that the party is a registered voter in the jurisdiction in which the election was held;
    - (iii) the name of the person whose right to the office is contested;
    - (iv) the office to which that person was ostensibly elected;
    - (v) one or more of the grounds for an election contest specified in Section 20A-4-402;
    - (vi) the person who was purportedly elected to the office as respondent; and
    - (vii) if the reception of illegal votes or the rejection of legal votes is alleged as a ground for the contest, the name and address of all persons who allegedly cast illegal votes or whose legal vote was rejected.
  - (c) When the reception of illegal votes or the rejection of legal votes is alleged as a cause of contest, it is sufficient to state generally that:
    - (i) illegal votes were given in one or more specified voting precincts to a person whose election is contested, which, if taken from him, would reduce the number of his legal votes below the number of legal votes given to some other person for the same office; or
    - (ii) that legal votes for another person were rejected, which, if counted, would raise the number of legal votes for that person above the number of legal votes cast for the person whose election is contested.
  - (d)
    - (i) The court may not take or receive evidence of any of the votes described in Subsection (1) (c) unless the party contesting the election delivers to the opposite party, at least three days before the trial, a written list of the number of contested votes and by whom the contested votes were given or offered, which he intends to prove at trial.
    - (ii) The court may not take or receive any evidence of contested votes except those that are specified in that list.
- (2)
  - (a) In contesting the results of a primary election, when contesting the petition nominating an independent candidate, or when challenging any person, election officer, election official, board, or convention for failing to nominate a person, a registered voter shall contest the right of any person declared nominated to any office by filing a verified written complaint within 10 days after the date of the canvass for the primary election, after the date of filing of the petition, or after the date of the convention, respectively, with:
    - (i) the district court of the county in which he resides if he is contesting a nomination made only by voters from that county; or
    - (ii) the Utah Supreme Court, if he is contesting a nomination made by voters in more than one county.
  - (b) The complaint shall include:
    - (i) the name of the party contesting the nomination;
    - (ii) a statement that the contesting party is a registered voter in the jurisdiction in which the election was held;

- (iii) the name of the person whose right to nomination is contested or the name of the person who failed to have their name placed in nomination;
  - (iv) the office to which that person was nominated or should have been nominated;
  - (v) one or more of the grounds for an election contest specified in Subsection (1);
  - (vi) the person who was purportedly nominated to the office as respondent; and
  - (vii) if the reception of illegal votes or the rejection of legal votes is alleged as a ground for the contest, the name and address of all persons who allegedly cast illegal votes or whose legal vote was rejected.
- (c) When the reception of illegal votes or the rejection of legal votes is alleged as a cause of contest, it is sufficient to state generally that:
- (i) illegal votes were given to a person whose election is contested, which, if taken from him, would reduce the number of his legal votes below the number of legal votes given to some other person for the same office; or
  - (ii) legal votes for another person were rejected, which, if counted, would raise the number of legal votes for that person above the number of legal votes cast for the person whose election is contested.
- (d)
- (i) The court may not take or receive evidence of any the votes described in Subsection (2)(c), unless the party contesting the election delivers to the opposite party, at least three days before the trial, a written list of the number of contested votes and by whom the contested votes were given or offered, which he intends to prove at trial.
  - (ii) The court may not take or receive any evidence of contested votes except those that are specified in that list.
- (3)
- (a) In contesting the results of a bond election, a registered voter shall contest the validity of the declared results by filing a verified written complaint with the district court of the county in which he resides within 40 days after the date of the official finding entered under Section 11-14-207.
- (b) The complaint shall include:
- (i) the name of the party contesting the election;
  - (ii) a statement that the party is a registered voter in the jurisdiction in which the election was held;
  - (iii) the bond proposition that is the subject of the contest;
  - (iv) one or more of the grounds for an election contest specified in Section 20A-4-402; and
  - (v) if the reception of illegal votes or the rejection of legal votes is alleged as a ground for the contest, the name and address of all persons who allegedly cast illegal votes or whose legal vote was rejected.
- (c) When the reception of illegal votes or the rejection of legal votes is alleged as a cause of contest, it is sufficient to state generally that:
- (i) illegal votes were counted in one or more specified voting precincts which, if taken out of the count, would change the declared result of the vote on the proposition; or
  - (ii) legal votes were rejected in one or more specified voting precincts, which, if counted, would change the declared result of the vote on the proposition.
- (d)
- (i) The court may not take or receive evidence of any of the votes described in Subsection (3)(c) unless the party contesting the election delivers to the opposite party, at least three days before the trial, a written list of the number of contested votes and by whom the contested votes were given or offered, which he intends to prove at trial.

- (ii) The court may not take or receive any evidence of contested votes except those that are specified in that list.
- (4) The court may not reject any statement of the grounds of contest or dismiss the proceedings because of lack of form, if the grounds of the contest are alleged with such certainty as will advise the defendant of the particular proceeding or cause for which the election is contested.
- (5)
  - (a) The petitioner shall serve a copy of the petition on the respondent.
  - (b)
    - (i) If the petitioner cannot obtain personal service of the petition on the respondent, the petitioner may serve the respondent by leaving a copy of the petition with the clerk of the court with which the petition was filed.
    - (ii) The clerk shall make diligent inquiry and attempt to inform the respondent that he has five days to answer the complaint.
  - (c) The respondent shall answer the petition within five days after the service.
  - (d) If the reception of illegal votes or the rejection of legal votes is alleged as a ground for the contest, the defendant shall set forth in the answer the name and address of all persons whom the defendant believes were properly or improperly admitted or denied the vote.
  - (e) If the answer contains a counterclaim, the petitioner shall file a reply within 10 days after service of the counterclaim.
- (6)
  - (a) The provisions of this Subsection (6) provide additional requirements that apply to municipal election contests that are in addition to the other requirements of this section governing election contest.
  - (b) Municipal election contests shall be filed, tried, and determined in the district court of the county in which the municipality is located.
  - (c)
    - (i) As a condition precedent to filing a municipal election contest, the petitioner shall file a written affidavit of intention to contest the election with the clerk of the court within seven days after the votes are canvassed.
    - (ii) The affidavit shall include:
      - (A) the petitioner's name;
      - (B) the fact that the petitioner is a qualified voter of the municipality;
      - (C) the respondent's name;
      - (D) the elective office contested;
      - (E) the time of election; and
      - (F) the grounds for the contest.
  - (d)
    - (i) Before the district court takes jurisdiction of a municipal election contest, the petitioner shall file a bond with the clerk of the court with the sureties required by the court.
    - (ii) The bond shall name the respondent as obligee and be conditioned for the payment of all costs incurred by the respondent if the respondent prevails.

Amended by Chapter 238, 2007 General Session