

ELECTION LAW - TECHNICAL AMENDMENTS

2001 GENERAL SESSION

STATE OF UTAH

Sponsor: Bryan D. Holladay

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This act modifies the Election Code to address the municipal primary canvass process, tie votes, the power of the Legislature to modify initiatives, misconduct of electors and offices in local initiatives and referenda, and the form of the special military write-in absentee ballot. This act directs clerks to prepare overseas citizen absentee voter ballots and makes technical corrections. This act has an immediate effective date.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

20A-1-304, as enacted by Chapter 1, Laws of Utah 1993

20A-3-404, as enacted by Chapter 1, Laws of Utah 1993

20A-4-401, as last amended by Chapter 3, Laws of Utah 2000

20A-7-212, as enacted by Chapter 1, Laws of Utah 1994

20A-7-512, as last amended by Chapter 165, Laws of Utah 1995

20A-7-612, as last amended by Chapter 165, Laws of Utah 1995

ENACTS:

20A-3-404.5, Utah Code Annotated 1953

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

Section 1. Section **20A-1-304** is amended to read:

20A-1-304. Tie votes.

[Hf] (1) Except as provided in Subsection (2), if two or more candidates for a position have an equal and the highest number of votes for any office, the election officer shall determine by lot which candidate is selected in a public meeting in the presence of each person subject to the tie within 30 days of the canvass or within 30 days of the recount if one is requested or held.

(2) For any municipal primary election, if two or more candidates for a position have an equal and the highest number of votes for any office, the election officer shall determine by lot

which candidate is selected in a public meeting in the presence of each person subject to the tie within five days of the canvass or within five days of the recount if one is requested or held.

Section 2. Section **20A-3-404** is amended to read:

20A-3-404. Special military write-in absentee ballots.

(1) Notwithstanding any other provisions of this chapter, a military voter may apply for a special write-in absentee ballot not later than 30 days before an election.

(2) To qualify for a special write-in absentee ballot, a military voter shall:

(a) apply for a special write-in absentee ballot by submitting a federal postcard application form; and

(b) state on the form or on a separate paper submitted with the form that he is unable to vote by regular absentee ballot or in person because of his military service.

(3) Upon receipt of the application, the county clerk shall issue and mail a special military write-in ballot~~[, in substantially the following form, to the military voter who requested it].~~

~~["OFFICIAL MILITARY WRITE-IN]~~

~~[ABSENTEE-VOTER BALLOT]~~

~~[Instructions: You may vote this ballot by:]~~

~~[1. Listing the name of the party for whose candidate for each office you wish to vote; or]~~

~~[2. By listing the name of the candidate, if known, or the person of your choice for whom you wish to vote. BALLOT]~~

~~[President/Vice-president _____]~~

~~[United States Senator _____]~~

~~[United States Representative _____"]~~

Section 3. Section **20A-3-404.5** is enacted to read:

20A-3-404.5. Special overseas citizen voter absentee ballot.

(1) As used in this section, "federal office" means President/Vice President of the United States, United States Senator, and United States Representative.

(2) Each county clerk, after consulting with the chief election officer, shall prepare a special overseas citizen voter ballot containing a means for the overseas citizen voter to vote for each federal

office that will appear on the regular general election ballot.

Section 4. Section **20A-4-401** is amended to read:

20A-4-401. Recounts -- Procedure.

(1) (a) (i) For any regular primary, [~~municipal primary~~] regular general, or municipal general election, or the Western States Presidential primary, when any candidate loses by not more than a total of one vote per voting precinct, the candidate may file a request for a recount with the appropriate election officer within seven days after the canvass.

(ii) For any municipal primary election, when any candidate loses by not more than a total of one vote per voting precinct, the candidate may file a request for a recount with the appropriate election officer within three days after the canvass.

(b) The election officer shall:

(i) supervise the recount;

(ii) recount all ballots cast for that office;

(iii) reexamine all unopened absentee ballots to ensure compliance with Chapter 3, Part 3;

and

(iv) declare elected the person receiving the highest number of votes on the recount.

(2) (a) Any ten voters who voted in an election when any ballot proposition was on the ballot may file a request for a recount with the appropriate election officer within seven days of the canvass.

(b) The election officer shall:

(i) supervise the recount;

(ii) recount all ballots cast for that ballot proposition;

(iii) reexamine all unopened absentee ballots to ensure compliance with Chapter 3, Part 3;

and

(iv) declare the ballot proposition to have "passed" or "failed" based upon the results of the recount.

(c) Proponents and opponents of the ballot proposition may designate representatives to witness the recount.

(d) The person or entity requesting the recount shall pay the costs of the recount.

(3) Costs incurred by recount under Subsection (1) may not be assessed against the person requesting the recount.

Section 5. Section **20A-7-212** is amended to read:

20A-7-212. Effective date.

(1) A proposed law submitted to the Legislature by initiative petition and enacted by them takes effect 60 days after the final adjournment of the session of the Legislature that passed it, unless a different effective date is included in the proposed law and the proposed law passes the Legislature by a two-thirds vote of the members elected to each house of the Legislature.

(2) (a) Any proposed law submitted to the people by initiative petition that is approved by the voters at any election does not take effect until at least five days after the date of the official proclamation of the vote by the governor.

(b) Any act or law submitted to the people by initiative that is approved by the voters at any election takes effect on the date specified in the initiative petition.

(c) If the initiative petition does not specify an effective date, a law approved by the voters at any election takes effect five days after the date of the official proclamation of the vote by the governor.

(3) (a) The governor may not veto a law adopted by the people.

(b) The Legislature may amend any [~~laws~~] initiative approved by the people at any legislative session [~~after the law has taken effect~~].

Section 6. Section **20A-7-512** is amended to read:

20A-7-512. Misconduct of electors and officers -- Penalty.

(1) It is unlawful for any person to:

(a) sign any name other than his own to any initiative petition;

(b) knowingly sign his name more than once for the same measure at one election;

(c) sign an initiative knowing he is not a legal voter; or

(d) knowingly and willfully violate any provision of this part.

(2) It is unlawful for any person to sign the verification for an initiative packet knowing that:

(a) he does not meet the residency requirements of Section 20A-2-105;

(b) he has not witnessed the signatures of those persons whose names appear in the initiative packet; or

(c) one or more persons whose signatures appear in the initiative packet is either:

(i) not registered to vote in Utah; or

(ii) does not intend to become registered to vote in Utah.

[(2)] (3) Any person violating this part is guilty of a class A misdemeanor.

(4) The county attorney or municipal attorney shall prosecute any violation of this section.

Section 7. Section **20A-7-612** is amended to read:

20A-7-612. Misconduct of electors and officers -- Penalty.

(1) It is unlawful for any person to:

(a) sign any name other than his own to any referendum petition;

(b) knowingly sign his name more than once for the same measure at one election;

(c) sign a referendum knowing he is not a legal voter; or

(d) knowingly and willfully violate any provision of this part.

(2) It is unlawful for any person to sign the verification for a referendum packet knowing

that:

(a) he does not meet the residency requirements of Section 20A-2-105;

(b) he has not witnessed the signatures of those persons whose names appear in the referendum packet; or

(c) one or more persons whose signatures appear in the referendum packet is either:

(i) not registered to vote in Utah; or

(ii) does not intend to become registered to vote in Utah.

[(2)] (3) Any person violating this part is guilty of a class A misdemeanor.

(4) The county attorney or municipal attorney shall prosecute any violation of this section.

Section 8. **Effective date.**

If approved by two-thirds of all the members elected to each house, this act takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution

Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto
override.