

1 **VOTING REQUIREMENTS**

2 2005 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: LaWanna Lou Shurtliff**

5

LONG TITLE

6 **General Description:**

7 This bill modifies the Election Code to remove the straight party vote option in
8 elections.
9

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ modifies the Election Code to remove the option to vote a straight party ticket from
13 the ballot; and
14 ▶ makes technical corrections.

15 **Monies Appropriated in this Bill:**

16 None

17 **Other Special Clauses:**

18 None

19 **Utah Code Sections Affected:**

20 **AMENDS:**

21 **20A-1-102**, as last amended by Chapters 117 and 127, Laws of Utah 2003

22 **20A-4-105**, as last amended by Chapter 56, Laws of Utah 1999

23 **20A-5-302**, as last amended by Chapter 113, Laws of Utah 2002

24 **20A-6-303**, as last amended by Chapter 57, Laws of Utah 2001

25 **REPEALS:**

26 **20A-3-106**, as enacted by Chapter 1, Laws of Utah 1993
27



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

29 Section 1. Section **20A-1-102** is amended to read:

30 **20A-1-102. Definitions.**

31 As used in this title:

32 (1) "Active voter" means a registered voter who has not been classified as an inactive
33 voter by the county clerk.

34 (2) "Automatic tabulating equipment" means apparatus that automatically examines
35 and counts votes recorded on paper ballots or ballot cards and tabulates the results.

36 (3) "Ballot" means the cardboard, paper, or other material upon which a voter records
37 his votes and includes ballot cards, paper ballots, and secrecy envelopes.

38 (4) "Ballot card" means a ballot that can be counted using automatic tabulating
39 equipment.

40 (5) "Ballot label" means the cards, papers, booklet, pages, or other materials that
41 contain the names of offices and candidates and statements of ballot propositions to be voted
42 on and which are used in conjunction with ballot cards.

43 (6) "Ballot proposition" means opinion questions specifically authorized by the
44 Legislature, constitutional amendments, initiatives, referenda, and judicial retention questions
45 that are submitted to the voters for their approval or rejection.

46 (7) "Board of canvassers" means the entities established by Sections 20A-4-301 and
47 20A-4-306 to canvass election returns.

48 (8) "Bond election" means an election held for the sole purpose of approving or
49 rejecting the proposed issuance of bonds by a government entity.

50 (9) "Book voter registration form" means voter registration forms contained in a bound
51 book that are used by election officers and registration agents to register persons to vote.

52 (10) "By-mail voter registration form" means a voter registration form designed to be
53 completed by the voter and mailed to the election officer.

54 (11) "Canvass" means the review of election returns and the official declaration of
55 election results by the board of canvassers.

56 (12) "Canvassing judge" means an election judge designated to assist in counting
57 ballots at the canvass.

58 (13) "Convention" means the political party convention at which party officers and

59 delegates are selected.

60 (14) "Counting center" means one or more locations selected by the election officer in
61 charge of the election for the automatic counting of ballots.

62 (15) "Counting judge" means a judge designated to count the ballots during election
63 day.

64 (16) "Counting poll watcher" means a person selected as provided in Section
65 20A-3-201 to witness the counting of ballots.

66 (17) "Counting room" means a suitable and convenient private place or room,
67 immediately adjoining the place where the election is being held, for use by the counting
68 judges to count ballots during election day.

69 (18) "County executive" has the meaning as provided in Subsection 68-3-12(2).

70 (19) "County legislative body" has the meaning as provided in Subsection 68-3-12(2).

71 (20) "County officers" means those county officers that are required by law to be
72 elected.

73 (21) "Election" means a regular general election, a municipal general election, a
74 statewide special election, a local special election, a regular primary election, a municipal
75 primary election, and a special district election.

76 (22) "Election Assistance Commission" means the commission established by Public
77 Law 107-252, the Help America Vote Act of 2002.

78 (23) "Election cycle" means the period beginning on the first day persons are eligible to
79 file declarations of candidacy and ending when the canvass is completed.

80 (24) "Election judge" means each canvassing judge, counting judge, and receiving
81 judge.

82 (25) "Election officer" means:

83 (a) the lieutenant governor, for all statewide ballots;

84 (b) the county clerk or clerks for all county ballots and for certain special district and
85 school district ballots as provided in Section 20A-5-400.5;

86 (c) the municipal clerk for all municipal ballots and for certain special district and
87 school district ballots as provided in Section 20A-5-400.5; and

88 (d) the special district clerk or chief executive officer for all special district ballots that
89 are not part of a statewide, county, or municipal ballot.

90 (26) "Election official" means any election officer, election judge, or satellite registrar.

91 (27) "Election returns" includes the pollbook, all affidavits of registration, the military
92 and overseas absentee voter registration and voting certificates, one of the tally sheets, any
93 unprocessed absentee ballots, all counted ballots, all excess ballots, all unused ballots, all
94 spoiled ballots, the ballot disposition form, and the total votes cast form.

95 (28) "Electronic voting system" means a system in which a voting device is used in
96 conjunction with ballots so that votes recorded by the voter are counted and tabulated by
97 automatic tabulating equipment.

98 (29) "Inactive voter" means a registered voter who has been sent the notice required by
99 Section 20A-2-306 and who has failed to respond to that notice.

100 (30) "Inspecting poll watcher" means a person selected as provided in this title to
101 witness the receipt and safe deposit of voted and counted ballots.

102 (31) "Judicial office" means the office filled by any judicial officer.

103 (32) "Judicial officer" means any justice or judge of a court of record or any county
104 court judge.

105 (33) "Local election" means a regular municipal election, a local special election, a
106 special district election, and a bond election.

107 (34) "Local political subdivision" means a county, a municipality, a special district, or
108 a local school district.

109 (35) "Local special election" means a special election called by the governing body of a
110 local political subdivision in which all registered voters of the local political subdivision may
111 vote.

112 (36) "Municipal executive" means:

113 (a) the city commission, city council, or town council in the traditional management
114 arrangement established by Title 10, Chapter 3, Part 1, Governing Body;

115 (b) the mayor in the council-mayor optional form of government defined in Section
116 10-3-1209; and

117 (c) the manager in the council-manager optional form of government defined in
118 Section 10-3-1209.

119 (37) "Municipal general election" means the election held in municipalities and special
120 districts on the first Tuesday after the first Monday in November of each odd-numbered year

121 for the purposes established in Section 20A-1-202.

122 (38) "Municipal legislative body" means:

123 (a) the city commission, city council, or town council in the traditional management
124 arrangement established by Title 10, Chapter 3, Part 1, Governing Body;

125 (b) the municipal council in the council-mayor optional form of government defined in
126 Section 10-3-1209; and

127 (c) the municipal council in the council-manager optional form of government defined
128 in Section 10-3-1209.

129 (39) "Municipal officers" means those municipal officers that are required by law to be
130 elected.

131 (40) "Municipal primary election" means an election held to nominate candidates for
132 municipal office.

133 (41) "Official ballot" means the ballots distributed by the election officer to the election
134 judges to be given to voters to record their votes.

135 (42) "Official endorsement" means:

136 (a) the information on the ballot that identifies:

137 (i) the ballot as an official ballot;

138 (ii) the date of the election; and

139 (iii) the facsimile signature of the election officer; and

140 (b) the information on the ballot stub that identifies:

141 (i) the election judge's initials; and

142 (ii) the ballot number.

143 (43) "Official register" means the book furnished election officials by the election
144 officer that contains the information required by Section 20A-5-401.

145 (44) "Paper ballot" means a paper that contains:

146 (a) the names of offices and candidates and statements of ballot propositions to be
147 voted on; and

148 (b) spaces for the voter to record his vote for each office and for or against each ballot
149 proposition.

150 (45) "Political party" means an organization of registered voters that has qualified to
151 participate in an election by meeting the requirements of Title 20A, Chapter 8, Political Party

152 Formation and Procedures.

153 (46) "Polling place" means the building where residents of a voting precinct vote or
154 where absentee voting is conducted.

155 (47) "Position" means a square, circle, rectangle, or other geometric shape on a ballot
156 in which the voter marks his choice.

157 (48) "Posting list" means a list of registered voters within a voting precinct.

158 (49) "Proof of identity" means some form of photo identification, such as a driver
159 license or identification card, that establishes a person's identity.

160 (50) "Proof of residence" means some official document or form, such as a driver
161 license or utility bill that establishes a person's residence.

162 (51) "Provisional ballot" means a ballot voted provisionally by a person:

163 (a) whose name is not listed on the official register at the polling place; or

164 (b) whose legal right to vote is challenged as provided in this title.

165 (52) "Provisional ballot envelope" means an envelope printed in the form required by
166 Section 20A-6-105 that is used to identify provisional ballots and to provide information to
167 verify a person's legal right to vote.

168 (53) "Primary convention" means the political party conventions at which nominees for
169 the regular primary election are selected.

170 (54) "Protective counter" means a separate counter, which cannot be reset, that is built
171 into a voting machine and records the total number of movements of the operating lever.

172 (55) "Qualify" or "qualified" means to take the oath of office and begin performing the
173 duties of the position for which the person was elected.

174 (56) "Receiving judge" means the election judge that checks the voter's name in the
175 official register, provides the voter with a ballot, and removes the ballot stub from the ballot
176 after the voter has voted.

177 (57) "Registration days" means the days designated in Section 20A-2-203 when a voter
178 may register to vote with a satellite registrar.

179 (58) "Registration form" means a book voter registration form and a by-mail voter
180 registration form.

181 (59) "Regular ballot" means a ballot that is not a provisional ballot.

182 (60) "Regular general election" means the election held throughout the state on the first

183 Tuesday after the first Monday in November of each even-numbered year for the purposes
184 established in Section 20A-1-201.

185 (61) "Regular primary election" means the election on the fourth Tuesday of June of
186 each even-numbered year, at which candidates of political parties and nonpolitical groups are
187 voted for nomination.

188 (62) "Resident" means a person who resides within a specific voting precinct in Utah.

189 (63) "Sample ballot" means a mock ballot similar in form to the official ballot printed
190 and distributed as provided in Section 20A-5-405.

191 (64) "Satellite registrar" means a person appointed under Section 20A-5-201 to register
192 voters and perform other duties.

193 ~~[(65) "Scratch vote" means to mark or punch the straight party ticket and then mark or~~
194 ~~punch the ballot for one or more candidates who are members of different political parties.]~~

195 [(66)] (65) "Secrecy envelope" means the envelope given to a voter along with the
196 ballot into which the voter places the ballot after he has voted it in order to preserve the secrecy
197 of the voter's vote.

198 [(67)] (66) "Special district" means those local government entities created under the
199 authority of Title 17A.

200 [(68)] (67) "Special district officers" means those special district officers that are
201 required by law to be elected.

202 [(69)] (68) "Special election" means an election held as authorized by Section
203 20A-1-204.

204 [(70)] (69) "Spoiled ballot" means each ballot that:

205 (a) is spoiled by the voter;

206 (b) is unable to be voted because it was spoiled by the printer or the election judge; or

207 (c) lacks the official endorsement.

208 [(71)] (70) "Statewide special election" means a special election called by the governor
209 or the Legislature in which all registered voters in Utah may vote.

210 [(72)] (71) "Stub" means the detachable part of each ballot.

211 [(73)] (72) "Substitute ballots" means replacement ballots provided by an election
212 officer to the election judges when the official ballots are lost or stolen.

213 [(74)] (73) "Ticket" means each list of candidates for each political party or for each

214 group of petitioners.

215 ~~[(75)]~~ (74) "Transfer case" means the sealed box used to transport voted ballots to the
216 counting center.

217 ~~[(76)]~~ (75) "Vacancy" means the absence of a person to serve in any position created
218 by statute, whether that absence occurs because of death, disability, disqualification,
219 resignation, or other cause.

220 ~~[(77)]~~ (76) "Valid write-in candidate" means a candidate who has qualified as a
221 write-in candidate by following the procedures and requirements of this title.

222 ~~[(78)]~~ (77) "Voter" means a person who meets the requirements for voting in an
223 election, meets the requirements of election registration, is registered to vote, and is listed in
224 the official register book.

225 ~~[(79)]~~ (78) "Voting area" means the area within six feet of the voting booths, voting
226 machines, and ballot box.

227 ~~[(80)]~~ (79) "Voting booth" means the space or compartment within a polling place that
228 is provided for the preparation of ballots and includes the voting machine enclosure or curtain.

229 ~~[(81)]~~ (80) "Voting device" means:

230 (a) an apparatus in which ballot cards are used in connection with a punch device for
231 piercing the ballots by the voter;

232 (b) a device for marking the ballots with ink or another substance; or

233 (c) any other method for recording votes on ballots so that the ballot may be tabulated
234 by means of automatic tabulating equipment.

235 ~~[(82)]~~ (81) "Voting machine" means a machine designed for the sole purpose of
236 recording and tabulating votes cast by voters at an election.

237 ~~[(83)]~~ (82) "Voting poll watcher" means a person appointed as provided in this title to
238 witness the distribution of ballots and the voting process.

239 ~~[(84)]~~ (83) "Voting precinct" means the smallest voting unit established as provided by
240 law within which qualified voters vote at one polling place.

241 ~~[(85)]~~ (84) "Watcher" means a voting poll watcher, a counting poll watcher, and an
242 inspecting poll watcher.

243 ~~[(86)]~~ (85) "Western States Presidential Primary" means the election established in
244 Title 20A, Chapter 9, Part 8.

245 [(87)] (86) "Write-in ballot" means a ballot containing any write-in votes.

246 [(88)] (87) "Write-in vote" means a vote cast for a person whose name is not printed on
247 the ballot according to the procedures established in this title.

248 Section 2. Section **20A-4-105** is amended to read:

249 **20A-4-105. Standards and requirements for evaluating voter's ballot choices.**

250 (1) Each person counting ballots shall apply the standards and requirements of this
251 section to resolve any questions that arise as ballots are counted.

252 (2) Except as provided in Subsection [(H)] (10), if a voter marks more names than
253 there are persons to be elected to an office, or if for any reason it is impossible to determine the
254 choice of any voter for any office to be filled, the counter may not count that voter's ballot for
255 that office.

256 (3) The counter shall count a defective or incomplete mark on any paper ballot if:

257 (a) it is in the proper place; and

258 (b) there is no other mark or cross on the paper ballot indicating the voter's intent to
259 vote other than as indicated by the defective mark.

260 [~~(4) (a) When the voter has marked the ballot so that it appears that the voter has voted
261 more than one straight ticket, the election judges may not count any votes for party candidates.]~~

262 [~~(b) The election judges shall count the remainder of the ballot if it is voted correctly.]~~

263 [(5)] (4) A counter may not reject a ballot marked by the voter because of marks on the
264 ballot other than those marks allowed by this section unless the extraneous marks on a ballot or
265 group of ballots show an intent by a person or group to mark their ballots so that their ballots
266 can be identified.

267 [(6)] (5) (a) In counting the ballots, the counters shall give full consideration to the
268 intent of the voter.

269 (b) The counters may not invalidate a ballot because of mechanical and technical
270 defects in voting or failure on the part of the voter to follow strictly the rules for balloting
271 required by Chapter 3.

272 [(7)] (6) The counters may not reject a ballot because of any error in:

273 (a) stamping or writing any official endorsement; or

274 (b) delivering the wrong ballots to any polling place.

275 [(8)] (7) The counter may not count any paper ballot that does not have the official

276 endorsement by an election officer.

277 ~~[(9)]~~ (8) If the counter discovers that the name of a candidate voted for is misspelled or
278 that the initial letters of a candidate's given name are transposed or omitted in part or
279 altogether, the counter shall count the voter's vote for that candidate if it is apparent that the
280 voter intended to vote for that candidate.

281 ~~[(10)]~~ (9) The counter shall count a vote for the president and the vice president of any
282 political party as a vote for the presidential electors selected by the political party.

283 ~~[(11)]~~ (10) In counting the valid write-in votes, if, by casting a valid write-in vote, a
284 voter has cast more votes for an office than that voter is entitled to vote for that office, the
285 judges shall count the valid write-in vote as being the obvious intent of the voter.

286 Section 3. Section **20A-5-302** is amended to read:

287 **20A-5-302. Automated voting system.**

288 (1) Any county or municipal legislative body or special district board may:

289 (a) adopt, experiment with, acquire by purchase, lease, or otherwise, or abandon any
290 automated voting system that meets the requirements of this section; and

291 (b) use that system in any election, in all or a part of the voting precincts within its
292 boundaries, or in combination with paper ballots.

293 (2) (a) Each automated voting system shall:

294 (i) provide for voting in secrecy, except in the case of voters who have received
295 assistance as authorized by Section 20A-3-108;

296 (ii) permit each voter at any election to:

297 (A) vote for all persons and offices for whom and for which that voter is lawfully
298 entitled to vote;

299 (B) vote for as many persons for an office as that voter is entitled to vote; and

300 (C) vote for or against any ballot proposition upon which that voter is entitled to vote;

301 (iii) permit each voter, at presidential elections, by one mark or punch to vote for the
302 candidates of that party for president, vice president, and for their presidential electors;

303 ~~[(iv) permit each voter, at any regular general election, to vote for all the candidates of
304 one registered political party by making one mark or punch;]~~

305 ~~[(v) permit each voter to scratch vote;]~~

306 ~~[(vi)]~~ (iv) at elections other than primary elections, permit each voter to vote for the

307 nominees of one or more parties and for independent candidates;

308 [~~(vii)~~] (v) at primary elections:

309 (A) permit each voter to vote for candidates of the political party of his choice; and

310 (B) reject any votes cast for candidates of another party;

311 [~~(viii)~~] (vi) prevent the voter from voting for the same person more than once for the
312 same office;

313 [~~(ix)~~] (vii) include automatic tabulating equipment that rejects choices recorded on a
314 voter's ballot if the number of the voter's recorded choices is greater than the number which the
315 voter is entitled to vote for the office or on the measure;

316 [~~(x)~~] (viii) be of durable construction, suitably designed so that it may be used safely,
317 efficiently, and accurately in the conduct of elections and counting ballots;

318 [~~(xi)~~] (ix) when properly operated, record correctly and count accurately each vote cast;
319 and

320 [~~(xii)~~] (x) meet the requirements of Section 20A-5-402.5.

321 (b) Notwithstanding any other provisions of this section, the election officers shall
322 ensure that the ballots to be counted by means of electronic or electromechanical devices are of
323 a size, layout, texture, and printed in a type of ink or combination of inks that will be suitable
324 for use in the counting devices in which they are intended to be placed.

325 Section 4. Section **20A-6-303** is amended to read:

326 **20A-6-303. Machine-counted ballots for regular general elections.**

327 (1) Each election officer shall ensure that:

328 (a) copy on the ballot labels are arranged in approximately the same order as paper
329 ballots;

330 (b) the titles of offices and the names of candidates are printed in vertical columns or in
331 a series of separate pages;

332 (c) if pages are used, the pages placed on the voting device are of sufficient number to
333 include, after the list of candidates:

334 (i) the names of candidates for judicial offices and any other nonpartisan offices; and

335 (ii) any ballot propositions submitted to the voters for their approval or rejection;

336 [~~(d) the ballot labels include a voting square or position where the voter may record a
337 straight party ticket vote for all the candidates of one party by one mark or punch;~~]

338 ~~[(e)]~~ (d) the tickets are printed on the ballot label in the order determined by the county
339 clerk;

340 ~~[(f)]~~ (e) the office titles are printed above or at the side of the names of candidates so as
341 to indicate clearly the candidates for each office and the number to be elected;

342 ~~[(g)]~~ (f) the party designation of each candidate is printed to the right or below the
343 candidate's name; and

344 ~~[(h)]~~ (g) (i) if possible, all candidates for one office are grouped in one column or upon
345 one page;

346 (ii) if all candidates for one office cannot be listed in one column or grouped upon one
347 page:

348 (A) the ballot label is clearly marked to indicate that the list of candidates is continued
349 on the following column or page; and

350 (B) approximately the same number of names are printed in each column or on each
351 page; and

352 ~~[(i)]~~ (h) arrows are used to indicate the place to vote for each candidate and on each
353 measure.

354 (2) Each election officer shall ensure that:

355 (a) proposed amendments to the Utah Constitution are listed on the ballot label under
356 the heading "Constitutional Amendment Number ___" with the number of the constitutional
357 amendment as assigned under Section 20A-7-103 placed in the blank;

358 (b) propositions submitted to the voters by the Utah Legislature are listed on the ballot
359 label under the heading "State Proposition Number ___" with the number of the state
360 proposition as assigned under Section 20A-7-103 placed in the blank;

361 (c) propositions submitted to the voters by a county are listed on the ballot label under
362 the heading "County Proposition Number ___" with the number of the county proposition as
363 assigned by the county legislative body placed in the blank;

364 (d) propositions submitted to the voters by a school district are listed on the ballot label
365 under the heading "School District Proposition Number ___" with the number of the school
366 district proposition as assigned by the county legislative body placed in the blank;

367 (e) state initiatives that have qualified for the ballot are listed on the ballot label under
368 the heading "Citizen's State Initiative Number ___" with the number of the state initiative as

369 assigned under Section 20A-7-209 placed in the blank;

370 (f) county initiatives that have qualified for the ballot are listed on the ballot label
371 under the heading "Citizen's County Initiative Number ___" with the number of the county
372 initiative as assigned under Section 20A-7-508 placed in the blank;

373 (g) state referenda that have qualified for the ballot are listed on the ballot label under
374 the heading "Citizen's State Referendum Number ___" with the number of the state referendum
375 as assigned under Sections 20A-7-209 and 20A-7-308 placed in the blank; and

376 (h) county referenda that have qualified for the ballot are listed on the ballot label
377 under the heading "Citizen's County Referendum Number ___" with the number of the county
378 referendum as assigned under Section 20A-7-608 placed in the blank.

379 Section 5. **Repealer.**

380 This bill repeals:

381 Section **20A-3-106, Voting straight ticket -- Splitting ballot -- Writing in names --**
382 **Effect of unnecessary marking of cross.**

Legislative Review Note

as of **2-4-05 12:15 PM**

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number HB0336

Voting Requirements

08-Feb-05

5:25 PM

State Impact

No fiscal impact.

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst