

1 **ABSENTEE BALLOT AMENDMENTS**

2 2009 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: John G. Mathis**

5 Senate Sponsor: Kevin T. Van Tassell

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies the Election Code to amend the date that absentee ballots may be
10 applied for and cast in person at the office of the election officer.

11 **Highlighted Provisions:**

12 This bill:

13 ▶ requires that applications for absentee ballots be applied for no later than the Friday
14 before the election date, regardless of whether the absentee ballot will be voted by
15 mail or in person;

16 ▶ requires that in-person absentee ballots be cast no later than the Friday before the
17 election date; and

18 ▶ makes technical changes.

19 **Monies Appropriated in this Bill:**

20 None

21 **Other Special Clauses:**

22 None

23 **Utah Code Sections Affected:**

24 AMENDS:

25 **20A-3-304**, as last amended by Laws of Utah 2004, Chapter 195

26 **20A-3-306**, as last amended by Laws of Utah 1997, Chapter 24

27 **20A-3-408.5**, as last amended by Laws of Utah 2008, Chapter 382

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

30 Section 1. Section 20A-3-304 is amended to read:

31 **20A-3-304. Application for absentee ballot -- Time for filing and voting.**

32 (1) Any registered voter who wishes to vote an absentee ballot may either:

33 (a) file an absentee ballot application with the appropriate election officer for an
34 official absentee ballot as provided in this section; or

35 (b) vote in person at the office of the appropriate election officer as provided in
36 Section 20A-3-306.

37 (2) (a) Except as provided in Subsection (2)(b), each election officer shall prepare
38 blank applications for absentee ballot applications in substantially the following form:

39 "I, _____, a qualified elector, residing at _____ Street, _____ City, _____ County, Utah
40 apply for an official absentee ballot to be voted by me at the election.

41 Date _____ (month\day\year) Signed _____
42 Voter"

43 (b) Each election officer shall prepare blank applications for absentee ballot
44 applications for regular primary elections and for the Western States Presidential Primary in
45 substantially the following form:

46 "I, _____, a qualified elector, residing at _____ Street, _____ City, _____ County, Utah
47 apply for an official absentee ballot for the _____ political party to be voted by
48 me at the primary election.

49 I understand that I must be affiliated with or authorized to vote the political party's
50 ballot that I request.

51 Dated _____ (month\day\year) _____ Signed _____
52 Voter"

53 (c) If requested by the applicant, the election officer shall:

54 (i) mail or fax the application blank to the absentee voter; or

55 (ii) deliver the application blank to any voter who personally applies for it at the office
56 of the election officer.

57 (3) (a) [(†)] Except as provided in [~~Subsections (3)(a)(ii) and (iii), the voters]~~

58 Subsection (3)(b), a voter who wishes to vote by absentee ballot shall file the application for
59 an absentee ballot with the appropriate election officer no later than the Friday before election
60 day.

61 ~~[(ii)]~~ (b) Overseas applicants shall file their applications with the appropriate election
62 officer no later than 20 days before ~~[the day of]~~ election day.

63 ~~[(iii) Voters applying for an absentee ballot for the Western States Presidential~~
64 ~~Primary shall file the application for an absentee ballot with the appropriate election officer~~
65 ~~not later than the Tuesday before election day.]~~

66 ~~[(b) Persons voting an absentee ballot at the office of the election officer shall apply~~
67 ~~for and cast their ballot no later than the day before the election.]~~

68 (4) (a) A county clerk may establish a permanent absentee voter list.

69 (b) The clerk shall place on the list the name of any person who:

70 (i) requests permanent absentee voter status; and

71 (ii) meets the requirements of this section.

72 (c) (i) Each year, the clerk shall mail a questionnaire to each person whose name is on
73 the absentee voter list.

74 (ii) The questionnaire shall allow the absentee person to verify the voter's residence.

75 (iii) The clerk may remove the names of any voter from the absentee voter registration
76 list if:

77 (A) the voter is no longer listed in the official register; or

78 (B) the voter fails to verify the voter's residence and absentee status.

79 (d) The clerk shall provide a copy of the permanent absentee voter list to election
80 officers for use in elections.

81 Section 2. Section **20A-3-306** is amended to read:

82 **20A-3-306. Voting ballot -- Returning ballot.**

83 (1) (a) To vote a mail-in absentee ballot, the absentee voter shall:

84 (i) complete and sign the affidavit on the envelope;

85 (ii) mark his votes on the absentee ballot;

- 86 (iii) place the voted absentee ballot in the envelope;
- 87 (iv) securely seal the envelope; and
- 88 (v) attach postage and deposit the envelope in the mail or deliver it in person to the
- 89 election officer from whom the ballot was obtained.

90 (b) To vote an absentee ballot in person at the office of the election officer, the absent

91 voter shall:

- 92 (i) complete and sign the affidavit on the envelope;
- 93 (ii) mark his votes on the absent-voter ballot;
- 94 (iii) place the voted absent-voter ballot in the envelope;
- 95 (iv) securely seal the envelope; and
- 96 (v) give the ballot and envelope to the election officer.

97 (2) An absentee ballot is not valid unless ~~[it is]~~:

98 (a) ~~[received]~~ in the case of an absentee ballot that is voted in person, it is applied for

99 and cast in person at the office of the appropriate election officer ~~[before the closing of polls~~

100 ~~on]~~ no later than the Friday before election day; or

101 (b) in the case of an absentee ballot that is returned by mail or transmitted

102 electronically under Section 20A-3-408.5, it is:

- 103 ~~[(b)]~~ (i) clearly postmarked or electronically transmitted before election day; and
- 104 (ii) received in the office of the election officer before noon on the day of the official
- 105 canvass following the election.

106 Section 3. Section **20A-3-408.5** is amended to read:

107 **20A-3-408.5. Electronic registration and voting by military and overseas citizen**

108 **voters in a hostile fire zone -- Procedures for accepting and processing a federal**

109 **postcard application form -- Returned ballot.**

110 (1) A military voter, an overseas citizen voter, or other voter covered under the federal

111 Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) shall be allowed to

112 transmit their federal postcard application form electronically to the county clerk in their

113 county of residence if the voter is currently deployed in:

- 114 (a) a hostile fire zone; or
- 115 (b) other area where the mail service is unreliable and not sufficient to accommodate
- 116 timely mail service.
- 117 (2) A voter covered under Subsection (1), shall file the federal postcard application
- 118 form no later than 20 days before the day of the election in accordance with Subsection
- 119 20A-3-304(3)~~(a)(ii)~~(b).
- 120 (3) Upon receiving a federal postcard application form under this section a county
- 121 clerk shall review the federal postcard application form to verify:
- 122 (a) compliance with this section; and
- 123 (b) that the form has been properly completed and signed.
- 124 (4) Upon a determination of compliance under Subsection (3), a county clerk shall:
- 125 (a) register the voter, unless the voter is already registered;
- 126 (b) process the absentee ballot request; and
- 127 (c) electronically transmit a ballot to the voter who filed the federal postcard
- 128 application form.
- 129 (5) A voter who receives a ballot under this section may transmit the ballot
- 130 electronically to the county clerk in their county of residence if the voter:
- 131 (a) agrees to waive the right to a secret ballot in accordance with this section; and
- 132 (b) affirms in writing that the voter is currently deployed in:
- 133 (i) a hostile fire zone; or
- 134 (ii) other area where the mail service is unreliable and not sufficient to accommodate
- 135 timely mail service.
- 136 (6) The electronically transmitted ballot shall be accompanied by the following
- 137 statements: "I understand that by electronically transmitting my voted ballot I am voluntarily
- 138 waiving my right to a secret ballot. Signature of voter _____ Date _____";
- 139 and
- 140 "I affirm that I am currently deployed in a hostile fire zone" or
- 141 "I affirm that I am currently deployed in an area where mail service is unreliable and

142 not sufficient to accommodate timely mail service."

143 (7) Notwithstanding the provisions of Subsections (5) and (6), the completed ballot
144 transmitted under this section is considered a private record under Title 63G, Chapter 2,
145 Government Records Access and Management Act.

146 (8) A ballot transmitted under Subsection (5) shall be:

147 (a) transmitted no later than the date that is one day before the election day in
148 accordance with Section 20A-3-406; and

149 (b) received by the county clerk before the date of the official canvass in accordance
150 with Subsection 20A-3-306(2)(b).

151 (9) Upon the receipt of an electronically transmitted ballot under this section, a county
152 clerk shall:

153 (a) verify the voter's signature from the federal postcard application form and ensure
154 that it matches the voter's signature on the return ballot;

155 (b) duplicate the electronically transmitted ballot onto a regular ballot used by the
156 county for resident voters; and

157 (c) maintain the electronically transmitted ballot for 22 months in accordance with
158 Subsection 20A-4-202(2).