

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

6

LONG TITLE

7 **General Description:**

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

10 **Highlighted Provisions:**

11 This bill:

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

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

17 ▶ makes technical changes.

18 **Monies Appropriated in this Bill:**

19 None

20 **Other Special Clauses:**

21 None

22 **Utah Code Sections Affected:**

23 AMENDS:

24 **20A-3-304**, as last amended by Laws of Utah 2004, Chapter 195

25 **20A-3-306**, as last amended by Laws of Utah 1997, Chapter 24

26 **20A-3-408.5**, as last amended by Laws of Utah 2008, Chapter 382



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

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

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

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

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

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

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

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

Date _____ (month\day\year) Signed _____

Voter"

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

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

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

Dated _____ (month\day\year) _____ Signed _____

Voter"

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

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

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

(3) (a) ~~[(i)]~~ Except as provided in ~~[Subsections (3)(a)(ii) and (iii), the voters]~~ Subsection (3)(b), a voter who wishes to vote by absentee ballot shall file the application for an

59 absentee ballot with the appropriate election officer no later than the Friday before election day.

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

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

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

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

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

69 (i) requests permanent absentee voter status; and

70 (ii) meets the requirements of this section.

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

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

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

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

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

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

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

81 **20A-3-306. Voting ballot -- Returning ballot.**

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

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

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

85 (iii) place the voted absentee ballot in the envelope;

86 (iv) securely seal the envelope; and

87 (v) attach postage and deposit the envelope in the mail or deliver it in person to the
88 election officer from whom the ballot was obtained.

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

90 voter shall:

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

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

97 (a) ~~[received]~~ in the case of an absentee ballot that is voted in person, it is applied for
98 and cast in person at the office of the appropriate election officer ~~[before the closing of polls~~
99 ~~on]~~ no later than the Friday before election day; or

100 (b) in the case of an absentee ballot that is returned by mail or transmitted
101 electronically under Section 20A-3-408.5, it is:

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

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

106 **20A-3-408.5. Electronic registration and voting by military and overseas citizen**
107 **voters in a hostile fire zone -- Procedures for accepting and processing a federal postcard**
108 **application form -- Returned ballot.**

109 (1) A military voter, an overseas citizen voter, or other voter covered under the federal
110 Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) shall be allowed to
111 transmit their federal postcard application form electronically to the county clerk in their
112 county of residence if the voter is currently deployed in:

- 113 (a) a hostile fire zone; or
- 114 (b) other area where the mail service is unreliable and not sufficient to accommodate
- 115 timely mail service.

116 (2) A voter covered under Subsection (1), shall file the federal postcard application
117 form no later than 20 days before the day of the election in accordance with Subsection
118 20A-3-304(3)~~[(a)(ii)]~~(b).

119 (3) Upon receiving a federal postcard application form under this section a county clerk
120 shall review the federal postcard application form to verify:

- 121 (a) compliance with this section; and
- 122 (b) that the form has been properly completed and signed.
- 123 (4) Upon a determination of compliance under Subsection (3), a county clerk shall:
- 124 (a) register the voter, unless the voter is already registered;
- 125 (b) process the absentee ballot request; and
- 126 (c) electronically transmit a ballot to the voter who filed the federal postcard
- 127 application form.
- 128 (5) A voter who receives a ballot under this section may transmit the ballot
- 129 electronically to the county clerk in their county of residence if the voter:
- 130 (a) agrees to waive the right to a secret ballot in accordance with this section; and
- 131 (b) affirms in writing that the voter is currently deployed in:
- 132 (i) a hostile fire zone; or
- 133 (ii) other area where the mail service is unreliable and not sufficient to accommodate
- 134 timely mail service.
- 135 (6) The electronically transmitted ballot shall be accompanied by the following
- 136 statements: "I understand that by electronically transmitting my voted ballot I am voluntarily
- 137 waiving my right to a secret ballot. Signature of voter _____ Date _____"; and
- 138 "I affirm that I am currently deployed in a hostile fire zone" or
- 139 "I affirm that I am currently deployed in an area where mail service is unreliable and not
- 140 sufficient to accommodate timely mail service."
- 141 (7) Notwithstanding the provisions of Subsections (5) and (6), the completed ballot
- 142 transmitted under this section is considered a private record under Title 63G, Chapter 2,
- 143 Government Records Access and Management Act.
- 144 (8) A ballot transmitted under Subsection (5) shall be:
- 145 (a) transmitted no later than the date that is one day before the election day in
- 146 accordance with Section 20A-3-406; and
- 147 (b) received by the county clerk before the date of the official canvass in accordance
- 148 with Subsection 20A-3-306(2)(b).
- 149 (9) Upon the receipt of an electronically transmitted ballot under this section, a county
- 150 clerk shall:
- 151 (a) verify the voter's signature from the federal postcard application form and ensure

152 that it matches the voter's signature on the return ballot;

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

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

Legislative Review Note
as of 2-9-09 5:39 PM

Office of Legislative Research and General Counsel

H.B. 390 - Absentee Ballot Amendments

Fiscal Note

2009 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
