

**Senator Howard A. Stephenson** proposes the following substitute bill:

**SPECIAL ELECTIONS MODIFICATIONS**

2010 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Howard A. Stephenson**

House Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill limits the date of certain special elections called by a local school board to the first Tuesday after the first Monday in November.

**Highlighted Provisions:**

This bill:

- ▶ limits the date of a special election called by a local school board to the first Tuesday after the first Monday in November except when creating a new school district; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill takes effect on July 1, 2010.

**Utah Code Sections Affected:**

AMENDS:

**17-3-1**, as last amended by Laws of Utah 2004, Chapter 371

**20A-1-102**, as last amended by Laws of Utah 2009, Chapter 45

**20A-1-204**, as last amended by Laws of Utah 2008, Chapters 16 and 382



26           **20A-5-400.5**, as last amended by Laws of Utah 2008, Chapter 80



27  
28   *Be it enacted by the Legislature of the state of Utah:*

29           Section 1. Section **17-3-1** is amended to read:

30           **17-3-1. By petition -- Election -- Ballots.**

31           Whenever any number of the qualified electors of any portion of any county desire to  
32 have the territory within which they reside created into a new county they may petition therefor  
33 the county legislative body of the county in which they reside. Such petition must be signed by  
34 at least 1/4 of the qualified electors as shown by the registration list of the last preceding  
35 general election, residing in that portion of the county to be created into a new county, and by  
36 not less than 1/4 of the qualified electors residing in the remaining portion of said county.

37 Such petition must be presented on or before the first Monday in May of any year, and shall  
38 propose the name and define the boundaries of such new county. The county legislative body  
39 must cause the proposition to be submitted to the legal voters residing in the county at a special  
40 election to be held according to the [dates] date established in Section 20A-1-204, first causing  
41 30 days' notice of such election to be given in the manner provided by law for giving notice of  
42 general elections. Such election shall be held, the result thereof canvassed, and returns made  
43 under the provisions of the general election laws. The form of ballot to be used at such  
44 election shall be:

45           For the creation of (supplying the name proposed) county.

46           Against the creation of (supplying the name proposed) county.

47           Section 2. Section **20A-1-102** is amended to read:

48           **20A-1-102. Definitions.**

49           As used in this title:

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

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

54           (3) "Ballot" means the storage medium, whether paper, mechanical, or electronic, upon  
55 which a voter records his votes and includes ballot sheets, paper ballots, electronic ballots, and  
56 secrecy envelopes.

- 57 (4) "Ballot sheet":  
58 (a) means a ballot that:  
59 (i) consists of paper or a card where the voter's votes are marked or recorded; and  
60 (ii) can be counted using automatic tabulating equipment; and  
61 (b) includes punch card ballots, and other ballots that are machine-countable.  
62 (5) "Ballot label" means the cards, papers, booklet, pages, or other materials that  
63 contain the names of offices and candidates and statements of ballot propositions to be voted  
64 on and which are used in conjunction with ballot sheets that do not display that information.  
65 (6) "Ballot proposition" means a question, issue, or proposal that is submitted to voters  
66 on the ballot for their approval or rejection including:  
67 (a) an opinion question specifically authorized by the Legislature;  
68 (b) a constitutional amendment;  
69 (c) an initiative;  
70 (d) a referendum;  
71 (e) a bond proposition;  
72 (f) a judicial retention question; or  
73 (g) any other ballot question specifically authorized by the Legislature.  
74 (7) "Board of canvassers" means the entities established by Sections 20A-4-301 and  
75 20A-4-306 to canvass election returns.  
76 (8) "Bond election" means an election held for the purpose of approving or rejecting  
77 the proposed issuance of bonds by a government entity.  
78 (9) "Book voter registration form" means voter registration forms contained in a bound  
79 book that are used by election officers and registration agents to register persons to vote.  
80 (10) "By-mail voter registration form" means a voter registration form designed to be  
81 completed by the voter and mailed to the election officer.  
82 (11) "Canvass" means the review of election returns and the official declaration of  
83 election results by the board of canvassers.  
84 (12) "Canvassing judge" means a poll worker designated to assist in counting ballots at  
85 the canvass.  
86 (13) "Convention" means the political party convention at which party officers and  
87 delegates are selected.

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

90 (15) "Counting judge" means a poll worker designated to count the ballots during  
91 election day.

92 (16) "Counting poll watcher" means a person selected as provided in Section  
93 20A-3-201 to witness the counting of ballots.

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

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

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

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

101 (21) "Election" means a regular general election, a municipal general election, a  
102 statewide special election, a local special election, a regular primary election, a municipal  
103 primary election, and a local district election.

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

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

108 (24) "Election judge" means a poll worker that is assigned to:

109 (a) preside over other poll workers at a polling place;

110 (b) act as the presiding election judge; or

111 (c) serve as a canvassing judge, counting judge, or receiving judge.

112 (25) "Election officer" means:

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

114 (b) the county clerk or clerks for all county ballots and for certain ballots and elections  
115 as provided in Section 20A-5-400.5;

116 (c) the municipal clerk for all municipal ballots and for certain ballots and elections as  
117 provided in Section 20A-5-400.5;

118 (d) the local district clerk or chief executive officer for certain ballots and elections as

119 provided in Section 20A-5-400.5; and

120 (e) the business administrator or superintendent of a school district for certain ballots  
121 or elections as provided in [~~Section 20A-5-400.5~~] Subsection 20A-1-204(1)(a)(iii).

122 (26) "Election official" means any election officer, election judge, or poll worker.

123 (27) "Election results" means, for bond elections, the count of those votes cast for and  
124 against the bond proposition plus any or all of the election returns that the board of canvassers  
125 may request.

126 (28) "Election returns" includes the pollbook, all affidavits of registration, the military  
127 and overseas absentee voter registration and voting certificates, one of the tally sheets, any  
128 unprocessed absentee ballots, all counted ballots, all excess ballots, all unused ballots, all  
129 spoiled ballots, the ballot disposition form, and the total votes cast form.

130 (29) "Electronic ballot" means a ballot that is recorded using a direct electronic voting  
131 device or other voting device that records and stores ballot information by electronic means.

132 (30) (a) "Electronic voting device" means a voting device that uses electronic ballots.

133 (b) "Electronic voting device" includes a direct recording electronic voting device.

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

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

138 (33) "Judicial office" means the office filled by any judicial officer.

139 (34) "Judicial officer" means any justice or judge of a court of record or any county  
140 court judge.

141 (35) "Local district" means a local government entity under Title 17B, Limited Purpose  
142 Local Government Entities - Local Districts, and includes a special service district under Title  
143 17D, Chapter 1, Special Service District Act.

144 (36) "Local district officers" means those local district officers that are required by law  
145 to be elected.

146 (37) "Local election" means a regular municipal election, a local special election, a  
147 local district election, and a bond election.

148 (38) "Local political subdivision" means a county, a municipality, a local district, or a  
149 local school district.

150 (39) "Local special election" means a special election called by the governing body of a  
151 local political subdivision in which all registered voters of the local political subdivision may  
152 vote.

153 (40) "Municipal executive" means:

154 (a) the mayor in the council-mayor form of government defined in Section 10-3b-102;  
155 and

156 (b) the mayor in the council-manager form of government defined in Subsection  
157 10-3b-103(6).

158 (41) "Municipal general election" means the election held in municipalities and local  
159 districts on the first Tuesday after the first Monday in November of each odd-numbered year  
160 for the purposes established in Section 20A-1-202.

161 (42) "Municipal legislative body" means the council of the city or town in any form of  
162 municipal government.

163 (43) "Municipal officers" means those municipal officers that are required by law to be  
164 elected.

165 (44) "Municipal primary election" means an election held to nominate candidates for  
166 municipal office.

167 (45) "Official ballot" means the ballots distributed by the election officer to the poll  
168 workers to be given to voters to record their votes.

169 (46) "Official endorsement" means:

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

171 (i) the ballot as an official ballot;

172 (ii) the date of the election; and

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

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

175 (i) the poll worker's initials; and

176 (ii) the ballot number.

177 (47) "Official register" means the official record furnished to election officials by the  
178 election officer that contains the information required by Section 20A-5-401.

179 (48) "Paper ballot" means a paper that contains:

180 (a) the names of offices and candidates and statements of ballot propositions to be

181 voted on; and

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

184 (49) "Political party" means an organization of registered voters that has qualified to  
185 participate in an election by meeting the requirements of Title 20A, Chapter 8, Political Party  
186 Formation and Procedures.

187 (50) (a) "Poll worker" means a person assigned by an election official to assist with an  
188 election, voting, or counting votes.

189 (b) "Poll worker" includes election judges.

190 (c) "Poll worker" does not include a watcher.

191 (51) "Pollbook" means a record of the names of voters in the order that they appear to  
192 cast votes.

193 (52) "Polling place" means the building where voting is conducted.

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

196 (54) "Provisional ballot" means a ballot voted provisionally by a person:

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

198 (b) whose legal right to vote is challenged as provided in this title; or

199 (c) whose identity was not sufficiently established by a poll worker.

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

203 (56) "Primary convention" means the political party conventions at which nominees for  
204 the regular primary election are selected.

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

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

209 (59) "Receiving judge" means the poll worker that checks the voter's name in the  
210 official register, provides the voter with a ballot, and removes the ballot stub from the ballot  
211 after the voter has voted.

212 (60) "Registration form" means a book voter registration form and a by-mail voter  
213 registration form.

214 (61) "Regular ballot" means a ballot that is not a provisional ballot.

215 (62) "Regular general election" means the election held throughout the state on the first  
216 Tuesday after the first Monday in November of each even-numbered year for the purposes  
217 established in Section 20A-1-201.

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

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

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

224 (66) "Scratch vote" means to mark or punch the straight party ticket and then mark or  
225 punch the ballot for one or more candidates who are members of different political parties.

226 (67) "Secrecy envelope" means the envelope given to a voter along with the ballot into  
227 which the voter places the ballot after he has voted it in order to preserve the secrecy of the  
228 voter's vote.

229 (68) "Special election" means an election held as authorized by Section 20A-1-204.

230 (69) "Spoiled ballot" means each ballot that:

231 (a) is spoiled by the voter;

232 (b) is unable to be voted because it was spoiled by the printer or a poll worker; or

233 (c) lacks the official endorsement.

234 (70) "Statewide special election" means a special election called by the governor or the  
235 Legislature in which all registered voters in Utah may vote.

236 (71) "Stub" means the detachable part of each ballot.

237 (72) "Substitute ballots" means replacement ballots provided by an election officer to  
238 the poll workers when the official ballots are lost or stolen.

239 (73) "Ticket" means each list of candidates for each political party or for each group of  
240 petitioners.

241 (74) "Transfer case" means the sealed box used to transport voted ballots to the  
242 counting center.

243 (75) "Vacancy" means the absence of a person to serve in any position created by  
244 statute, whether that absence occurs because of death, disability, disqualification, resignation,  
245 or other cause.

246 (76) "Valid voter identification" means:

247 (a) a form of identification that bears the name and photograph of the voter which may  
248 include:

249 (i) a currently valid Utah driver license;

250 (ii) a currently valid identification card that is issued by:

251 (A) the state; or

252 (B) a branch, department, or agency of the United States;

253 (iii) a currently valid Utah permit to carry a concealed weapon;

254 (iv) a currently valid United States passport; or

255 (v) a valid tribal identification card, whether or not the card includes a photograph of  
256 the voter;

257 (b) two forms of identification that bear the name of the voter and provide evidence  
258 that the voter resides in the voting precinct, which may include:

259 (i) a current utility bill or a legible copy thereof, dated within the 90 days before the  
260 election;

261 (ii) a bank or other financial account statement, or a legible copy thereof;

262 (iii) a certified birth certificate;

263 (iv) a valid Social Security card;

264 (v) a check issued by the state or the federal government or a legible copy thereof;

265 (vi) a paycheck from the voter's employer, or a legible copy thereof;

266 (vii) a currently valid Utah hunting or fishing license;

267 (viii) a currently valid United States military identification card;

268 (ix) certified naturalization documentation;

269 (x) a currently valid license issued by an authorized agency of the United States;

270 (xi) a certified copy of court records showing the voter's adoption or name change;

271 (xii) a Bureau of Indian Affairs card;

272 (xiii) a tribal treaty card;

273 (xiv) a valid Medicaid card, Medicare card, or Electronic Benefits Transfer Card;

274 (xv) a currently valid identification card issued by:

275 (A) a local government within the state;

276 (B) an employer for an employee; or

277 (C) a college, university, technical school, or professional school located within the  
278 state;

279 (xvi) a current Utah vehicle registration; or

280 (xvii) a form of identification listed in Subsection (76)(a) that does not contain a

281 photograph, but establishes the name of the voter and provides evidence that the voter resides

282 in the voting precinct, if at least one other form of identification listed in Subsection (76)(b)(i)

283 through (xv) is also presented.

284 (77) "Valid write-in candidate" means a candidate who has qualified as a write-in  
285 candidate by following the procedures and requirements of this title.

286 (78) "Voter" means a person who meets the requirements for voting in an election,  
287 meets the requirements of election registration, is registered to vote, and is listed in the official  
288 register book.

289 (79) "Voter registration deadline" means the registration deadline provided in Section  
290 20A-2-102.5.

291 (80) "Voting area" means the area within six feet of the voting booths, voting  
292 machines, and ballot box.

293 (81) "Voting booth" means:

294 (a) the space or compartment within a polling place that is provided for the preparation  
295 of ballots, including the voting machine enclosure or curtain; or

296 (b) a voting device that is free standing.

297 (82) "Voting device" means:

298 (a) an apparatus in which ballot sheets are used in connection with a punch device for  
299 piercing the ballots by the voter;

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

301 (c) an electronic voting device or other device used to make selections and cast a ballot  
302 electronically, or any component thereof;

303 (d) an automated voting system under Section 20A-5-302; or

304 (e) any other method for recording votes on ballots so that the ballot may be tabulated

305 by means of automatic tabulating equipment.

306 (83) "Voting machine" means a machine designed for the sole purpose of recording  
307 and tabulating votes cast by voters at an election.

308 (84) "Voting poll watcher" means a person appointed as provided in this title to  
309 witness the distribution of ballots and the voting process.

310 (85) "Voting precinct" means the smallest voting unit established as provided by law  
311 within which qualified voters vote at one polling place.

312 (86) "Watcher" means a voting poll watcher, a counting poll watcher, an inspecting  
313 poll watcher, and a testing watcher.

314 (87) "Western States Presidential Primary" means the election established in Title 20A,  
315 Chapter 9, Part 8.

316 (88) "Write-in ballot" means a ballot containing any write-in votes.

317 (89) "Write-in vote" means a vote cast for a person whose name is not printed on the  
318 ballot according to the procedures established in this title.

319 Section 3. Section **20A-1-204** is amended to read:

320 **20A-1-204. Date of special election -- Legal effect.**

321 (1) (a) (i) [~~The~~] Except as provided by Subsection (1)(a)(ii), the governor, Legislature,  
322 or the legislative body of a local political subdivision calling a statewide special election or a  
323 local special election under Section 20A-1-203 shall schedule the special election to be held  
324 on:

325 [(i)] (A) the fourth Tuesday in June; or

326 [(ii)] (B) the first Tuesday after the first Monday in November; or

327 [(iii)] (C) for an election of town officers of a newly incorporated town under  
328 Subsection 10-2-125(9), on any date that complies with the requirements of that subsection.

329 (ii) Notwithstanding the provisions of Subsection (1)(a)(i), and except as provided by  
330 Subsection (1)(a)(iii), a local school board calling a local special election under Section  
331 20A-1-203 shall schedule the special election to be held on the first Tuesday after the first  
332 Monday in November.

333 (iii) The local school board calling a local special election under Section 20A-1-203  
334 may schedule the special election to be held on the fourth Tuesday in June for a vote to elect  
335 members to local school district boards in a new school district and a remaining school district.

336 as defined in Section 53A-2-117, immediately following the creation of a new school district  
337 under Section 53A-2-118.1.

338 (b) Except as provided in Subsection (1)(c), the governor, Legislature, or the legislative  
339 body of a local political subdivision calling a statewide special election or local special election  
340 under Section 20A-1-203 may not schedule a special election to be held on any other date.

341 (c) (i) Notwithstanding the requirements of Subsection (1)(b), the legislative body of a  
342 local political subdivision may call a local special election on a date other than those specified  
343 in this section if the legislative body:

344 (A) determines and declares that there is a disaster, as defined in Section 63K-3-102,  
345 requiring that a special election be held on a date other than the ones authorized in statute;

346 (B) identifies specifically the nature of the disaster, as defined in Section 63K-3-102,  
347 and the reasons for holding the special election on that other date; and

348 (C) votes unanimously to hold the special election on that other date.

349 (ii) The legislative body of a local political subdivision may not call a local special  
350 election for the date established in Title 20A, Chapter 9, Part 8, Western States Presidential  
351 Primary, for Utah's Western States Presidential Primary.

352 (d) Nothing in this section prohibits:

353 (i) the governor or Legislature from submitting a matter to the voters at the regular  
354 general election if authorized by law; or

355 (ii) a local government from submitting a matter to the voters at the regular municipal  
356 election if authorized by law.

357 (2) (a) Two or more entities shall comply with Subsection (2)(b) if those entities hold a  
358 special election within a county on the same day as:

359 (i) another special election;

360 (ii) a regular general election; or

361 (iii) a municipal general election.

362 (b) Entities described in Subsection (2)(a) shall, to the extent practicable, coordinate:

363 (i) polling places;

364 (ii) ballots;

365 (iii) election officials; and

366 (iv) other administrative and procedural matters connected with the election.

367 Section 4. Section **20A-5-400.5** is amended to read:

368 **20A-5-400.5. Election officer for bond and leeway elections -- Billing.**

369 (1) [~~When a voted leeway or bond election is held on the regular general election date~~  
370 ~~or regular primary election date, the~~] The county clerk shall serve as the election officer to

371 conduct and administer [~~that election.~~] the election when a:

372 (a) voted leeway is held on the regular general election date; and

373 (b) bond election is held on the regular general election date or regular primary election  
374 date.

375 (2) (a) When a voted leeway or bond election is held on the municipal general election  
376 date or any other election date permitted for special elections under Section 20A-1-204, and the  
377 local political subdivision calling the election is entirely within the boundaries of the  
378 unincorporated county, the county clerk shall serve as the election officer to conduct and  
379 administer that election subject to Subsection (3).

380 (b) When a voted leeway or bond election is held on the municipal general election  
381 date or any other election date permitted for special elections under Section 20A-1-204, and the  
382 local political subdivision calling the election is entirely within the boundaries of a  
383 municipality, the municipal clerk for that municipality shall, except as provided in Subsection  
384 (3), serve as the election officer to conduct and administer that election.

385 (c) When a voted leeway or bond election is held on the municipal general election  
386 date or any other election date permitted for special elections under Section 20A-1-204, and the  
387 local political subdivision calling the election extends beyond the boundaries of a single  
388 municipality:

389 (i) except as provided in Subsection (3), the municipal clerk shall serve as the election  
390 officer to conduct and administer the election for those portions of the local political  
391 subdivision where the municipal general election or other election is being held; and

392 (ii) except as provided in Subsection (3), the county clerk shall serve as the election  
393 officer to conduct and administer the election for the unincorporated county and for those  
394 portions of any municipality where no municipal general election or other election is being  
395 held.

396 (3) When a [~~voted leeway or~~] bond election is held on a date when no other election,  
397 other than another [~~voted leeway or~~] bond election, is being held in the entire area comprising

398 the municipality calling the ~~[voted leeway or]~~ bond election:

399 (a) the clerk or chief executive officer of a local district ~~[or the business administrator~~  
400 ~~or superintendent of the school district, as applicable,]~~ shall serve as the election officer to  
401 conduct and administer the bond election for those portions of the municipality in which no  
402 other election, other than another ~~[voted leeway or]~~ bond election, is being held, unless the  
403 local district ~~[or school district]~~ has designated the county clerk, municipal clerk, or both, to  
404 serve as the election officer; and

405 (b) the county clerk, municipal clerk, or both, as determined by the municipality  
406 holding the bond election, shall serve as the election officer to conduct and administer the bond  
407 election for those portions of the municipality in which another election, other than another  
408 ~~[voted leeway or]~~ bond election is being held.

409 (4) (a) In conducting elections under this section:

410 (i) the local political subdivision shall provide and pay for election notices; and

411 (ii) the election officer shall determine polling locations and compile, prepare, and  
412 count the ballots.

413 (b) The county clerk, the municipal clerk, or both shall:

414 (i) establish fees for conducting voted leeway and bond elections for local political  
415 subdivisions; and

416 (ii) bill each local political subdivision for the cost of conducting the voted leeway or  
417 bond election.

418 (c) (i) The fees and charges assessed by a county clerk or a municipal clerk under this  
419 section may not exceed the actual costs incurred by the county clerk or the municipal clerk.

420 (ii) The actual costs shall include:

421 (A) costs of or rental fees associated with the use of election equipment and supplies;  
422 and

423 (B) reasonable and necessary administrative costs.

424 (5) An election officer administering and conducting a voted leeway or bond election is  
425 authorized to appoint or employ agents and professional services to assist in conducting and  
426 administering the voted leeway or bond election.

427 (6) The election officer in a voted leeway or bond election shall conduct its procedures  
428 under the direction of the local political subdivision calling the voted leeway or bond election.

429 Section 5. **Effective date.**

430 This bill takes effect on July 1, 2010.