

**PROVISIONAL BALLOT AMENDMENTS FOR
UNREGISTERED VOTERS**

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Rebecca Chavez-Houck

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Election Code to require a county clerk to count a provisional ballot of an unregistered voter under certain circumstances.

Highlighted Provisions:

This bill:

- ▶ amends the definition of "legally entitled to vote" to include a voter who is eligible to be registered to vote in the state;
- ▶ requires a county clerk to count a provisional ballot of a person who is not registered to vote but who is eligible to register to vote in this state; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

- 20A-2-102.5**, as last amended by Laws of Utah 2008, Chapter 225
- 20A-2-201**, as last amended by Laws of Utah 2008, Chapters 225 and 276
- 20A-4-107**, as last amended by Laws of Utah 2010, Chapter 197



28 **20A-6-105**, as last amended by Laws of Utah 2007, Chapter 285



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

31 Section 1. Section **20A-2-102.5** is amended to read:

32 **20A-2-102.5. Voter registration deadline.**

33 (1) Except as provided in Section 20A-2-201, Section 20A-4-107, and in Title 20A,
34 Chapter 3, Part 4, Voting by Members of the Military and by Other Persons Living or Serving
35 Abroad, a person who fails to submit a correctly completed voter registration form on or before
36 the voter registration deadline [~~shall not be permitted to~~] may not vote in the election.

37 (2) The voter registration deadline [~~shall be~~] is the date that is 30 calendar days before
38 the date of the election.

39 Section 2. Section **20A-2-201** is amended to read:

40 **20A-2-201. Registering to vote at office of county clerk.**

41 (1) Except as provided in Subsection (3), the county clerk shall register to vote all
42 persons who present themselves for registration at the county clerk's office during designated
43 office hours if those persons, on the date of the election, will be legally eligible to vote in a
44 voting precinct in the county in accordance with Section 20A-2-101.

45 (2) If a registration form is submitted in person at the office of the county clerk during
46 the period beginning on the date after the voter registration deadline and ending on the date that
47 is 15 calendar days before the date of the election, the county clerk shall:

48 (a) accept registration forms from all persons who present themselves for registration at
49 the clerk's office during designated office hours if those persons, on the date of the election,
50 will be legally qualified and entitled to vote in a voting precinct in the county; and

51 (b) inform them that:

52 (i) they will be registered to vote in the pending election; and

53 (ii) for the pending election, they must vote on the day of the election and will not be
54 eligible to vote using early voting under Chapter 3, Part 6, Early Voting, because they
55 registered too late.

56 (3) If a registration form is submitted to the county clerk on the date of the election or
57 during the 14 calendar days before an election, the county clerk shall:

58 (a) accept registration forms from all persons who present themselves for registration at

59 the clerk's office during designated office hours if those persons, on the date of the election,
60 will be legally qualified and entitled to vote in a voting precinct in the county; and

61 (b) inform them that they will be registered to vote but [~~may not vote~~] will have to vote
62 using a provisional ballot in the pending election because they registered too late.

63 Section 3. Section **20A-4-107** is amended to read:

64 **20A-4-107. Review and disposition of provisional ballot envelopes.**

65 (1) As used in this section, a voter is "legally entitled to vote" if:

66 (a) the voter:

67 (i) is registered to vote in the state or is eligible to register to vote in the state;

68 (ii) resides within the voting precinct where the voter seeks to vote; and

69 (iii) provided valid voter identification to the poll worker [as] if indicated by a notation
70 in the official register;

71 (b) the voter:

72 (i) is registered to vote in the state or is eligible to register to vote in the state;

73 (ii) (A) provided valid voter identification to the poll worker [as] if indicated by a
74 notation in the official register; or

75 (B) either failed to provide valid voter identification or the documents provided as
76 valid voter identification were inadequate and the poll worker recorded that fact in the official
77 register but the county clerk verifies the voter's identity and residence through some other
78 means; and

79 (iii) did not vote in the voter's precinct of residence, but the ballot that the voter voted
80 is identical to the ballot voted in the voter's precinct of residence; or

81 (c) the voter:

82 (i) is registered to vote in the state or is eligible to register to vote in the state;

83 (ii) either failed to provide valid voter identification or the documents provided as
84 valid voter identification were inadequate and the poll worker recorded that fact in the official
85 register; and

86 (iii) (A) the county clerk verifies the voter's identity and residence through some other
87 means as reliable as photo identification; or

88 (B) the voter provides valid voter identification to the county clerk or an election
89 officer who is administering the election by the close of normal office hours on Monday after

90 the date of the election.

91 (2) (a) Upon receipt of provisional ballot envelopes, the election officer shall review
92 the affirmation on the face of each provisional ballot envelope and determine if the person
93 signing the affirmation is [~~a registered voter and~~] legally entitled to vote the ballot that the
94 voter voted.

95 (b) If the election officer determines that the person [~~is not a registered voter or~~] is not
96 legally entitled to vote the ballot that the voter voted, the election officer shall retain the ballot
97 envelope, unopened, for the period specified in Section 20A-4-202 unless ordered by a court to
98 produce or count it.

99 (c) If the election officer determines that the person [~~is a registered voter and~~] is legally
100 entitled to vote the ballot that the voter voted, the election officer shall remove the ballot from
101 the provisional ballot envelope and place the ballot with the absentee ballots to be counted with
102 those ballots at the canvass.

103 (d) The election officer may not count, or allow to be counted a provisional ballot
104 unless the voter's identity and residence is established by a preponderance of the evidence.

105 (3) If the election officer determines that the person is a registered voter, the election
106 officer shall ensure that the voter registration records are updated to reflect the information
107 provided on the provisional ballot envelope.

108 (4) If the election officer determines that the person is not a registered voter and the
109 information on the provisional ballot envelope is complete, the election officer shall:

- 110 (a) consider the provisional ballot envelope a voter registration form; and
- 111 (b) register the voter.

112 Section 4. Section **20A-6-105** is amended to read:

113 **20A-6-105. Provisional ballot envelopes.**

114 (1) [~~Each~~] An election officer shall ensure that provisional ballot envelopes are printed
115 in substantially the following form:

116 "AFFIRMATION

117 Are you a citizen of the United States of America? Yes No

118 Will you be 18 years old on or before election day? Yes No

119 If you checked "no" in response to either of the two above questions, do not complete this
120 form.

121 Name of Voter _____

122 First Middle Last

123 Driver License or Identification Card Number _____

124 State of Issuance of Driver License or Identification Card Number _____

125 Date of Birth _____

126 Street Address of Principal Place of Residence

127 _____

128 City County State Zip Code

129 Telephone Number (optional) _____

130 Last four digits of Social Security Number _____

131 Last former address at which I was registered to vote (if known)

132 _____

133 City County State Zip Code

134 Voting Precinct (if known)

135 _____

136 I, (please print your full name) _____ do solemnly swear or

137 affirm:

138 That I am currently [~~registered~~] eligible to register to vote or registered to vote in the
139 state of Utah and am eligible to vote in this election; that I have not voted in this election in any
140 other precinct; that I am eligible to vote in this precinct; and that I request that I be permitted to
141 vote in this precinct; and

142 Subject to penalty of law for false statements, that the information contained in this
143 form is true, and that I am a citizen of the United States and a resident of Utah, residing at the
144 above address; and that I am at least 18 years old and have resided in Utah for the 30 days
145 immediately before this election.

146 Signed _____

147 Dated _____

148 In accordance with Section 20A-3-506, wilfully providing false information above is a
149 class B misdemeanor under Utah law and is punishable by imprisonment and by fine".

150 "CITIZENSHIP AFFIDAVIT

151 Name:

152 Name at birth, if different:

153 Place of birth:

154 Date of birth:

155 Date and place of naturalization (if applicable):

156 I hereby swear and affirm, under penalties for voting fraud set forth below, that I am a
157 citizen and that to the best of my knowledge and belief the information above is true and
158 correct.

159 _____
160 Signature of Applicant

161 In accordance with Section 20A-2-401, the penalty for willfully causing, procuring, or
162 allowing yourself to be registered to vote if you know you are not entitled to register to vote is
163 up to one year in jail and a fine of up to \$2,500."

164 (2) The provisional ballot envelope shall include:

165 (a) a unique number;

166 (b) a detachable part that includes the unique number; and

167 (c) a telephone number, internet address, or other indicator of a means, in accordance
168 with Section 20A-6-105.5, where the voter can find out if the provisional ballot was counted.

Legislative Review Note
as of 1-26-11 4:35 PM

Office of Legislative Research and General Counsel

FISCAL NOTE

H.B. 255

SHORT TITLE: **Provisional Ballot Amendments for Unregistered Voters**

SPONSOR: **Chavez-Houck, R.**

2011 GENERAL SESSION, STATE OF UTAH

STATE GOVERNMENT (UCA 36-12-13(2)(b))

Enactment of this bill likely will not materially impact the state budget.

LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

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

DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d))

Enactment of this bill likely will not result in direct, measurable expenditures by Utah residents or businesses.