

SPECIAL ELECTION DATE FOR BALLOT PROPOSITIONS

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Howard A. Stephenson

House Sponsor: Steve Eliason

LONG TITLE

Committee Note:

The Revenue and Taxation Interim Committee recommended this bill.

General Description:

This bill amends provisions related to the timing of a special election for certain ballot propositions.

Highlighted Provisions:

This bill:

- ▶ requires an election for a bond, debt, leeway, levy, or tax to take place on the first Tuesday after the first Monday in November; and
- ▶ makes technical and conforming amendments.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-1-404, as enacted by Laws of Utah 2003, Chapter 253

11-14-203, as renumbered and amended by Laws of Utah 2005, Chapter 105

17B-1-1001, as last amended by Laws of Utah 2011, Chapter 40

17B-2a-608, as enacted by Laws of Utah 2010, Chapter 159



28 **17B-2a-705**, as renumbered and amended by Laws of Utah 2007, Chapter 329

29 **17B-2a-817**, as last amended by Laws of Utah 2010, Chapter 159

30 **17B-2a-1009**, as enacted by Laws of Utah 2010, Chapter 159

31 **17D-1-503**, as enacted by Laws of Utah 2008, Chapter 360

32 **20A-1-203**, as last amended by Laws of Utah 2012, Chapter 359

33 **20A-1-204**, as last amended by Laws of Utah 2012, Chapter 359

34 **20A-5-400.5**, as last amended by Laws of Utah 2011, Chapter 310

35

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

37 Section 1. Section **10-1-404** is amended to read:

38 **10-1-404. Municipal telecommunications license tax ordinance provisions.**

39 An ordinance required by Subsection 10-1-403(1) shall include a provision that:

40 (1) levies a municipal telecommunications license tax:

41 (a) on the gross receipts from telecommunications service attributed to the municipality
42 in accordance with Section 10-1-407;

43 (b) at a rate:

44 (i) not to exceed the rate specified in Subsection 10-1-403(1)(c); and

45 (ii) subject to the requirements of Section 10-1-407; and

46 (c) beginning on a date:

47 (i) on or after July 1, 2004; and

48 (ii) subject to the requirements of Section 10-1-403;

49 (2) on or before the effective date of the ordinance, the municipality shall enter into the
50 uniform interlocal agreement with the commission described in Section 10-1-405 under which
51 the commission collects, enforces, and administers the municipal telecommunications license
52 tax;

53 (3) exempts a municipality from the limitation on the rate that may be imposed under
54 Subsection (1)(b)(i) if the exemption from the limitation on the rate that may be imposed under
55 Subsection (1)(b)(i) is approved by a majority vote of the voters in the municipality that vote
56 in:

57 (a) a municipal general election; or

58 (b) a regular general election; [~~or~~] and

59 ~~[(c) a local special election; and]~~

60 (4) incorporates the provisions of Section 10-1-408.

61 Section 2. Section **11-14-203** is amended to read:

62 **11-14-203. Time for election -- Equipment -- Election officials -- Combining**
63 **precincts.**

64 (1) (a) The local political subdivision shall ensure that bond elections are conducted
65 and administered according to the procedures set forth in this chapter and the sections of the
66 Election Code specifically referenced by this chapter.

67 (b) When a local political subdivision complies with those procedures, there is a
68 presumption that the bond election was properly administered.

69 (2) (a) A bond election may be held, and the proposition for the issuance of bonds may
70 be submitted, on the same date as ~~[any] the regular general [or] election, the municipal general~~
71 election held in the local political subdivision calling the bond election, or at a special election
72 called for the purpose on a date authorized by Section 20A-1-204.

73 (b) A bond election may not be held, nor a proposition for issuance of bonds be
74 submitted, at the Western States Presidential Primary election established in Title 20A, Chapter
75 9, Part 8, Western States Presidential Primary.

76 (3) (a) The bond election shall be conducted and administered by the election officer
77 designated in Sections 20A-1-102 and 20A-5-400.5.

78 (b) (i) The duties of the election officer shall be governed by Title 20A, Chapter 5, Part
79 4, Election Officer's Duties.

80 (ii) The publishing requirement under Subsection 20A-5-405(1)(j)(iii) does not apply
81 when notice of a bond election has been provided according to the requirements of Section
82 11-14-202.

83 (c) The hours during which the polls are to be open shall be consistent with Section
84 20A-1-302.

85 (d) The appointment and duties of election judges shall be governed by Title 20A,
86 Chapter 5, Part 6, ~~[Election Judges]~~ Poll Workers.

87 (e) General voting procedures shall be conducted according to the requirements of Title
88 20A, Chapter 3, Voting.

89 (f) The designation of election crimes and offenses, and the requirements for the

90 prosecution and adjudication of those crimes and offenses are set forth in Title 20A, Election
91 Code.

92 (4) When a bond election is being held on a day when no other election is being held in
93 the local political subdivision calling the bond election, voting precincts may be combined for
94 purposes of bond elections so long as no voter is required to vote outside the county in which
95 the voter resides.

96 (5) When a bond election is being held on the same day as any other election held in a
97 local political subdivision calling the bond election, or in some part of that local political
98 subdivision, the polling places and election officials serving for the other election may also
99 serve as the polling places and election officials for the bond election, so long as no voter is
100 required to vote outside the county in which the voter resides.

101 Section 3. Section **17B-1-1001** is amended to read:

102 **17B-1-1001. Provisions applicable to property tax levy.**

103 (1) Each local district that levies and collects property taxes shall levy and collect them
104 according to the provisions of Title 59, Chapter 2, Property Tax Act.

105 (2) As used in this section, "elected official" means a local district board of trustees
106 member who:

107 (a) is elected to the board of trustees by local district voters at an election held for that
108 purpose, including a member elected under Subsection (4);

109 (b) holds, at the time of appointment to the board of trustees, an elected position with a
110 municipality, county, or another local district that is partially or completely included within the
111 boundaries of the local district;

112 (c) is appointed in accordance with Subsection 17B-1-303(5) or 17B-1-306(4)(f); or

113 (d) is considered to be elected in accordance with Subsection 17B-1-306(4)(g).

114 (3) (a) Except as provided in Subsection (3)(b), a local district may not levy or collect
115 property tax revenue that exceeds the certified tax rate during a taxable year that begins on or
116 after January 1, 2011.

117 (b) Notwithstanding Subsection (3)(a), a local district may levy or collect property tax
118 revenue that exceeds the certified tax rate during a taxable year that begins on or after January
119 1, 2011, if:

120 (i) and to the extent that the revenue from the property tax was pledged before January

- 121 1, 2011, to pay for bonds or other obligations of the local district;
- 122 (ii) the members of the board of trustees are all elected officials;
- 123 (iii) the majority of the board of trustees are elected officials; or
- 124 (iv) the proposed tax or increase in the property tax rate has been approved by:
- 125 (A) a majority of the registered voters within the local district at an election held for
- 126 that purpose on a date specified in Section 20A-1-204;
- 127 (B) the legislative body of the appointing authority; or
- 128 (C) the legislative body of:
- 129 (I) a majority of the municipalities partially or completely included within the
- 130 boundary of the specified local district; or
- 131 (II) the county in which the specified local district is located, if the county has some or
- 132 all of its unincorporated area included within the boundary of the specified local district.
- 133 (4) (a) Notwithstanding provisions to the contrary in Title 17B, Chapter 2a, Provisions
- 134 Applicable to Different Types of Local Districts, and for purposes of Subsection (3)(b),
- 135 members of the board of trustees of a local district shall be elected, if, subject to Subsection
- 136 (4)(b):
- 137 (i) two-thirds of all members of the board of trustees of the local district vote in favor
- 138 of changing to an elected board; and
- 139 (ii) the legislative body of each municipality or county that appoints a member to the
- 140 board of trustees adopts a resolution approving the change to an elected board.
- 141 (b) A change to an elected board of trustees under Subsection (4)(a) may not shorten
- 142 the term of any member of the board of trustees serving at the time of the change.
- 143 (5) Subsections (2), (3), and (4) do not apply to:
- 144 (a) Title 17B, Chapter 2a, Part 6, Metropolitan Water District Act;
- 145 (b) Title 17B, Chapter 2a, Part 10, Water Conservancy District Act; or
- 146 (c) a local district in which:
- 147 (i) the board of trustees consists solely of:
- 148 (A) land owners or the land owners' agents; or
- 149 (B) as described in Subsection 17B-1-302(1)(c), land owners or the land owners' agents
- 150 or officers; and
- 151 (ii) there are no residents within the local district at the time a property tax is levied.

152 Section 4. Section **17B-2a-608** is amended to read:

153 **17B-2a-608. Limit on property tax authority -- Exceptions.**

154 (1) As used in this section, "elected official" means a metropolitan water district board
155 of trustee member who is elected to the board of trustees by metropolitan water district voters
156 at an election held for that purpose.

157 (2) The board of trustees of a metropolitan water district may not collect property tax
158 revenue in a tax year beginning on or after January 1, 2015, that would exceed the certified tax
159 rate under Section 59-2-924 unless:

160 (a) the members of the board of trustees are all elected officials; or

161 (b) the proposed tax levy has previously been approved by:

162 (i) a majority of the metropolitan water district voters at an election held for that
163 purpose on a date specified in Section 20A-1-204; or

164 (ii) the legislative body of each municipality that appoints a member to the board of
165 trustees under Section [~~17B-2a-204~~] 17B-2a-206.

166 Section 5. Section **17B-2a-705** is amended to read:

167 **17B-2a-705. Taxation -- Additional levy -- Election.**

168 (1) If a mosquito abatement district board of trustees determines that the funds required
169 during the next ensuing fiscal year will exceed the maximum amount that the district is
170 authorized to levy under Subsection 17B-1-103(2)(g), the board of trustees may call an election
171 on a date specified in Section 20A-1-204 and submit to district voters the question of whether
172 the district should be authorized to impose an additional tax to raise the necessary additional
173 funds.

174 (2) The board shall, for at least four weeks before the election:

175 (a) publish notice of the election in a daily or weekly newspaper published in the
176 district; or

177 (b) if there is no daily or weekly newspaper published in the district, post notice of the
178 election in three public places in the district.

179 (3) No particular form of ballot is required, and no informalities in conducting the
180 election may invalidate the election, if it is otherwise fairly conducted.

181 (4) At the election each ballot shall contain the words, "Shall the district be authorized
182 to impose an additional tax to raise the additional sum of \$____?"

183 (5) The board of trustees shall canvass the votes cast at the election, and, if a majority
184 of the votes cast are in favor of the imposition of the tax, the district is authorized to impose an
185 additional levy to raise the additional amount of money required.

186 Section 6. Section **17B-2a-817** is amended to read:

187 **17B-2a-817. Voter approval required for property tax levy.**

188 Notwithstanding the provisions of Section 17B-1-1001 and in addition to a property tax
189 under Section 17B-1-1103 to pay general obligation bonds of the district, a public transit
190 district may levy a property tax, as provided in and subject to Chapter 1, Part 10, Local District
191 Property Tax Levy, if:

192 (1) the district first submits the proposal to levy the property tax to voters within the
193 district; and

194 (2) a majority of voters within the district voting on the proposal vote in favor of the
195 tax at an election held for that purpose on a date specified in Section 20A-1-204.

196 Section 7. Section **17B-2a-1009** is amended to read:

197 **17B-2a-1009. Limit on property tax authority -- Exceptions.**

198 (1) As used in this section, "elected official" means a water conservancy district board
199 of trustee member who:

200 (a) is elected to the board of trustees by water conservancy district voters at an election
201 held for that purpose;

202 (b) holds, at the time of appointment to the board of trustees, an elected position with a
203 municipality, county, or local district that is partially or completely included within the
204 boundaries of the water conservancy district; or

205 (c) is appointed in accordance with Subsection 17B-1-303(5) or 17B-1-306(4)(f) or (g).

206 (2) The board of trustees of a water conservancy district may not collect property tax
207 revenue in a tax year beginning on or after January 1, 2015, that would exceed the certified tax
208 rate under Section 59-2-924 unless:

209 (a) the members of the board of trustees are all elected officials;

210 (b) the majority of the board of trustees are elected officials; or

211 (c) the proposed tax levy has previously been approved by:

212 (i) a majority of the water conservancy district voters at an election held for that
213 purpose on a date specified in Section 20A-1-204; or

214 (ii) for a district described in Subsection 17B-2a-1005(2)(b), the appointing authority.

215 Section 8. Section **17D-1-503** is amended to read:

216 **17D-1-503. Levy to pay for general obligation bonds.**

217 (1) (a) If a special service district has issued general obligation bonds, or expects to
218 have debt service payments due on general obligation bonds during the current year, the
219 legislative body of the county or municipality that created the special service district may make
220 an annual levy of ad valorem property taxes in order to:

221 (i) pay the principal of and interest on the general obligation bonds;

222 (ii) establish a sinking fund for defaults and future debt service on the general
223 obligation bonds; and

224 (iii) establish a reserve to secure payment of the general obligation bonds.

225 (b) A levy under Subsection (1)(a) is:

226 (i) without limitation as to rate or amount; and

227 (ii) subject to the prior approval of a majority of registered voters of the special service
228 district voting in an election held for that purpose on a date specified in Section 20A-1-204.

229 (2) (a) Each county or municipality that levies a tax under Subsection (1) shall:

230 (i) levy the tax as a separate and special levy for the specific purposes stated in
231 Subsection (1); and

232 (ii) apply the proceeds from the levy solely for the purpose of paying the principal of
233 and interest on the general obligation bonds, even though the proceeds may be used to establish
234 or replenish a sinking fund under Subsection (1)(a)(ii) or a reserve under Subsection (1)(a)(iii).

235 (b) A levy under Subsection (2)(a) is not subject to a priority in favor of a special
236 service district obligation in existence at the time the bonds were issued.

237 Section 9. Section **20A-1-203** is amended to read:

238 **20A-1-203. Calling and purpose of special elections -- Two-thirds vote**
239 **limitations.**

240 (1) Statewide and local special elections may be held for any purpose authorized by
241 law.

242 (2) (a) Statewide special elections shall be conducted using the procedure for regular
243 general elections.

244 (b) Except as otherwise provided in this title, local special elections shall be conducted

245 using the procedures for regular municipal elections.

246 (3) The governor may call a statewide special election by issuing an executive order
247 that designates:

248 (a) the date for the statewide special election; and

249 (b) the purpose for the statewide special election.

250 (4) The Legislature may call a statewide special election by passing a joint or
251 concurrent resolution that designates:

252 (a) the date for the statewide special election; and

253 (b) the purpose for the statewide special election.

254 (5) (a) The legislative body of a local political subdivision may call a local special
255 election only for:

256 (i) a vote on a bond or debt issue;

257 (ii) a vote on a voted local levy authorized by Section 53A-16-110 or 53A-17a-133;

258 (iii) an initiative authorized by Chapter 7, Part 5, Local Initiatives - Procedures;

259 (iv) a referendum authorized by Chapter 7, Part 6, Local Referenda - Procedures;

260 (v) if required or authorized by federal law, a vote to determine whether or not Utah's
261 legal boundaries should be changed;

262 (vi) a vote authorized or required by Title 59, Chapter 12, Sales and Use Tax Act;

263 (vii) a vote to elect members to school district boards for a new school district and a
264 remaining school district, as defined in Section 53A-2-117, following the creation of a new
265 school district under Section 53A-2-118.1; or

266 (viii) an election of town officers of a newly incorporated town under Section
267 10-2-128.

268 (b) The legislative body of a local political subdivision may call a local special election
269 by adopting an ordinance or resolution that designates:

270 (i) the date for the local special election as authorized by Section 20A-1-204; and

271 (ii) the purpose for the local special election.

272 (c) A local political subdivision may not call a local special election unless the
273 ordinance or resolution calling a local special election under Subsection (5)(b) is adopted by a
274 two-thirds majority of all members of the legislative body, if the local special election is for:

275 (i) a vote on a bond or debt issue as described in Subsection (5)(a)(i);

276 (ii) a vote on a voted leeway or levy program as described in Subsection (5)(a)(ii); or
277 (iii) a vote authorized or required for a sales tax issue as described in Subsection
278 (5)(a)(vi).

279 Section 10. Section **20A-1-204** is amended to read:

280 **20A-1-204. Date of special election -- Legal effect.**

281 (1) (a) ~~The~~ Except as provided by Subsection (1)(d), the governor, Legislature, or the
282 legislative body of a local political subdivision calling a statewide special election or local
283 special election under Section 20A-1-203 shall schedule the special election to be held on:

284 (i) the fourth Tuesday in June;
285 (ii) the first Tuesday after the first Monday in November; or
286 (iii) for an election of town officers of a newly incorporated town under Section
287 10-2-128, on any date that complies with the requirements of that subsection.

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

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

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

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

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

299 (ii) The legislative body of a local political subdivision may not call a local special
300 election for the date established in Chapter 9, Part 8, Western States Presidential Primary, for
301 Utah's Western States Presidential Primary.

302 (d) The legislative body of a local political subdivision may only call a special election
303 for a ballot proposition related to a bond, debt, leeway, levy, or tax on the first Tuesday after
304 the first Monday in November.

305 ~~(d)~~ (e) Nothing in this section prohibits:

306 (i) the governor or Legislature from submitting a matter to the voters at the regular

307 general election if authorized by law; or

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

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

312 (i) another special election;

313 (ii) a regular general election; or

314 (iii) a municipal general election.

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

316 (i) polling places;

317 (ii) ballots;

318 (iii) election officials; and

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

320 Section 11. Section **20A-5-400.5** is amended to read:

321 **20A-5-400.5. Election officer for bond and leeway elections.**

322 (1) When a voted leeway or bond election is held on the regular general election date
323 [~~or regular primary election date~~], the county clerk shall serve as the provider election officer to
324 conduct that election.

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

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

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

338 municipality:

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

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

345 (3) When a voted leeway or bond election is held on a date when no other election,
346 other than another voted leeway or bond election, is being held in the entire area comprising
347 the local political subdivision calling the voted leeway or bond election:

348 (a) the clerk or chief executive officer of a local district or the business administrator or
349 superintendent of the school district, as applicable, shall serve as the election officer to conduct
350 the bond election for those portions of the local political subdivision in which no other
351 election, other than another voted leeway or bond election, is being held, unless the local
352 district or school district has contracted with a provider election officer; and

353 (b) the county clerk, municipal clerk, or both, as determined by the local political
354 subdivision holding the bond election, shall serve as the provider election officer to conduct the
355 bond election for those portions of the local political subdivision in which another election,
356 other than another voted leeway or bond election, is being held.

357 (4) A provider election officer required by this section to conduct an election for a local
358 political subdivision shall comply with Section 20A-5-400.1.

Legislative Review Note
as of 12-7-12 11:01 AM

Office of Legislative Research and General Counsel