

HB0415S01 compared with HB0415

~~{deleted text}~~ shows text that was in HB0415 but was deleted in HB0415S01.

inserted text shows text that was not in HB0415 but was inserted into HB0415S01.

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Representative Steve Eliason proposes the following substitute bill:

LOCAL AND SPECIAL SERVICE DISTRICT ELECTIONS

AMENDMENTS

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Steve Eliason

Senate Sponsor: _____

LONG TITLE

General Description:

This bill ~~{provides that, except in relation to an elected member of a municipal special service district}~~permits a local district board, or the administrative control board~~{, a local district election and}~~of a special service district ~~{election are held at the same time as a regular general election}~~that has elected members on the board, to hold elections in an even-numbered year, if approved by the lieutenant governor.

Highlighted Provisions:

This bill:

- ▶ ~~{revises the definition of "municipal general election"}~~defines terms;
- ▶ ~~{provides that}~~permits a local district board~~{of trustees election is held at the same~~

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~~time as a regular general election;~~

- ~~establishes provisions for the election of;~~ or the administrative control board of a special service district that has elected members on the board, to hold elections in an even-numbered year, if approved by the lieutenant governor;
- ▶ describes application requirements to apply to hold an election in an even-numbered year;
- ▶ describes the criteria upon which the lieutenant governor may approve an application to hold an election in an even-numbered year;
- ▶ provides a procedure and requirements for a local district board ~~{member whose election falls}~~; or the administrative control board of a special service district that has elected members on the board, to switch back to holding elections in an odd-numbered year;
- ▶ ~~{provides that an elected member of a county special service district administrative control board is elected during a regular general election;~~
- ~~changes the filing deadline for a declaration of candidacy in a local district that authorizes a primary election;~~
- ~~establishes a deadline for a local district to authorize a primary election}~~; permits the lieutenant governor to increase the length of a term of a board member in order to adjust for a change in the year in which an election is held; and
 - ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17B-1-301, as last amended by Laws of Utah 2011, Chapter 209

17B-1-303, as last amended by Laws of Utah 2013, Chapter 448

17B-1-305, as renumbered and amended by Laws of Utah 2007, Chapter 329

17B-1-306, as last amended by Laws of Utah 2013, Chapters 402 and 448

17B-2a-404, as last amended by Laws of Utah 2012, Chapter 97

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17D-1-106, as last amended by Laws of Utah 2012, Chapters 97 and 347

20A-1-102, as last amended by Laws of Utah 2013, Chapter 320

20A-1-201, as last amended by Laws of Utah 2000, Chapter 241

20A-1-202, as last amended by Laws of Utah 2011, Chapter 40

~~† **20A-3-101**, as last amended by Laws of Utah 2008, Chapter 276~~

† **20A-5-101**, as last amended by Laws of Utah 2011, Chapters 291 and 292

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

Section 1. Section **17B-1-301** is amended to read:

17B-1-301. Board of trustees duties and powers.

(1) (a) Each local district shall be governed by a board of trustees which shall manage and conduct the business and affairs of the district and shall determine all questions of district policy.

(b) All powers of a local district are exercised through the board of trustees.

(2) The board of trustees may:

(a) fix the location of the local district's principal place of business and the location of all offices and departments, if any;

(b) fix the times of meetings of the board of trustees;

(c) select and use an official district seal;

(d) subject to Subsections (3) and (4), employ employees and agents, or delegate to district officers power to employ employees and agents, for the operation of the local district and its properties and prescribe or delegate to district officers the power to prescribe the duties, compensation, and terms and conditions of employment of those employees and agents;

(e) require district officers and employees charged with the handling of district funds to provide surety bonds in an amount set by the board or provide a blanket surety bond to cover officers and employees;

(f) contract for or employ professionals to perform work or services for the local district that cannot satisfactorily be performed by the officers or employees of the district;

(g) through counsel, prosecute on behalf of or defend the local district in all court actions or other proceedings in which the district is a party or is otherwise involved;

(h) adopt bylaws for the orderly functioning of the board;

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(i) adopt and enforce rules and regulations for the orderly operation of the local district or for carrying out the district's purposes;

(j) prescribe a system of civil service for district employees;

(k) on behalf of the local district, enter into contracts that the board considers to be for the benefit of the district;

(l) acquire, construct or cause to be constructed, operate, occupy, control, and use buildings, works, or other facilities for carrying out the purposes of the local district;

(m) on behalf of the local district, acquire, use, hold, manage, occupy, and possess property necessary to carry out the purposes of the district, dispose of property when the board considers it appropriate, and institute and maintain in the name of the district any action or proceeding to enforce, maintain, protect, or preserve rights or privileges associated with district property;

(n) delegate to a district officer the exercise of a district duty; and

(o) exercise all powers and perform all functions in the operation of the local district and its properties as are ordinarily exercised by the governing body of a political subdivision of the state and as are necessary to accomplish the purposes of the district.

(3) (a) As used in this Subsection (3), "interim vacancy period" means:

(i) if any member of the local district board is elected, the period of time that:

(A) begins on the day on which ~~a municipal regular~~ general election described in ~~Section 17B-1-306~~ an election is held to elect a local district board member; and

(B) ends on the day on which the local district board member-elect begins the member's term; or

(ii) if any member of the local district board is appointed, the period of time that:

(A) begins on the day on which an appointing authority posts a notice of vacancy in accordance with Section 17B-1-304; and

(B) ends on the day on which the person who is appointed by the local district board to fill the vacancy begins the person's term.

(b) (i) The local district may not hire during an interim vacancy period a manager, a chief executive officer, a chief administrative officer, or a similar position to perform executive and administrative duties or functions.

(ii) Notwithstanding Subsection (3)(b)(i):

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(A) the local district may hire an interim manager, a chief executive officer, a chief administrative officer, or a similar position during an interim vacancy period; and

(B) the interim manager's, chief executive officer's, chief administrative officer's, or similar position's employment shall terminate once a new manager, chief executive officer, chief administrative officer, or similar position is hired by the new local district board after the interim vacancy period has ended.

(c) Subsection (3)(b) does not apply if:

(i) all the elected local district board members who held office on the day of the [municipal ~~()~~ regular] general election for the local district board members, whose term of office was vacant for the election are re-elected to the local district board; and

(ii) all the appointed local district board members who were appointed whose term of appointment was expiring are re-appointed to the local district board.

(4) A local district board that hires an interim manager, a chief executive officer, a chief administrative officer, or a similar position in accordance with this section may not, on or after May 10, 2011, enter into an employment contract that contains an automatic renewal provision with the interim manager, chief executive officer, chief administrative officer, or similar position.

Section 2. Section **17B-1-303** is amended to read:

17B-1-303. Term of board of trustees members -- Oath of office -- Bond.

(1) (a) Except as provided in Subsections (1)(b) and (c), the term of each member of a board of trustees shall begin at noon on the January 1 following the member's election or appointment.

(b) The term of each member of the initial board of trustees of a newly created local district shall begin:

(i) upon appointment, for an appointed member; and

(ii) upon the member taking the oath of office after the canvass of the election at which the member is elected, for an elected member.

(c) The term of each water conservancy district board member appointed by the governor as provided in Subsection 17B-2a-1005(2)(c) shall begin on the date on which the senate consents to the appointment.

(2) (a) (i) ~~Subject~~ Except as provided ~~by~~ in Subsection (8) ~~(a)~~, and subject to

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Subsection (2)(a)(ii), the term of each member of a board of trustees shall be four years, except that approximately half the members of the initial board of trustees, chosen by lot, shall serve a two-year term so that the term of approximately half the board members expires every two years.

(ii) (A) If the terms of members of the initial board of trustees of a newly created local district do not begin on January 1 because of application of Subsection (1)(b), the terms of those members shall be adjusted as necessary, subject to Subsection (2)(a)(ii)(B), to result in the terms of their successors complying with:

(I) the requirement under Subsection (1)(a) for a term to begin on January 1 following a member's election or appointment; and

(II) the requirement under Subsection (2)(a)(i) that terms be four years.

(B) An adjustment under Subsection (2)(a)(ii)(A) may not add more than a year to or subtract more than a year from a member's term.

(b) Each board of trustees member shall serve until a successor is duly elected or appointed and qualified, unless the member earlier is removed from office or resigns or otherwise leaves office.

(c) If a member of a board of trustees no longer meets the qualifications of Subsection 17B-1-302(1), or if the member's term expires without a duly elected or appointed successor:

(i) the member's position is considered vacant, subject to Subsection (2)(c)(ii); and

(ii) the member may continue to serve until a successor is duly elected or appointed and qualified.

(3) (a) (i) Before entering upon the duties of office, each member of a board of trustees shall take the oath of office specified in Utah Constitution ~~1.3~~ Article IV, Section 10.

(ii) An oath of office may be administered by a judge, county clerk, notary public, or the local district clerk.

(b) Each oath of office shall be filed with the clerk of the local district.

(c) The failure of a board of trustees member to take the oath required by Subsection (3)(a) does not invalidate any official act of that member.

(4) A board of trustees member is not limited in the number of terms the member may serve.

(5) Except as provided in Subsection (6), each midterm vacancy in a board of trustees

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position shall be filled as provided in Section 20A-1-512.

(6) (a) For purposes of this Subsection (6):

(i) "Appointed official" means a person who:

(A) is appointed as a member of a local district board of trustees by a county or municipality entitled to appoint a member to the board; and

(B) holds an elected position with the appointing county or municipality.

(ii) "Appointing entity" means the county or municipality that appointed the appointed official to the board of trustees.

(b) The board of trustees shall declare a midterm vacancy for the board position held by an appointed official if:

(i) during the appointed official's term on the board of trustees, the appointed official ceases to hold the elected position with the appointing entity; and

(ii) the appointing entity submits a written request to the board to declare the vacancy.

(c) Upon the board's declaring a midterm vacancy under Subsection (6)(b), the appointing entity shall appoint another person to fill the remaining unexpired term on the board of trustees.

(7) (a) Each member of a board of trustees shall give a bond for the faithful performance of the member's duties, in the amount and with the sureties prescribed by the board of trustees.

(b) The local district shall pay the cost of each bond required under Subsection (7)(a).

(8) The lieutenant governor may extend the term of an elected ~~local~~ district board member ~~whose election falls in an odd-numbered year is extended one year so that the elected board member's election is held in a regular general election the following even-numbered year~~ by one year in order to compensate for a change in the election year under Subsection 17B-1-306(13).

Section 3. Section **17B-1-305** is amended to read:

17B-1-305. Notice of offices to be filled.

On or before February 1 of each [municipal] ~~regular~~ election year in which board members of a local district are elected, the board of each local district required to participate in an election that year shall prepare and transmit to the clerk of each county in which any part of the district is located a written notice that:

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(1) designates the offices to be filled at that year's [~~municipal~~ regular ~~general~~] election; and

(2) identifies the dates for filing a declaration of candidacy for those offices.

Section 4. Section **17B-1-306** is amended to read:

17B-1-306. Local district board -- Election procedures.

(1) Except as provided in Subsection (11), each elected board member shall be selected as provided in this section.

(2) (a) Each election of a local district board member shall be held:

(i) at the same time as the ~~{} municipal~~ regular ~~general~~ election or the regular general election, as applicable; and

(ii) at polling places designated by the county clerk in consultation with the local district for each county in which the local district is located, which polling places shall coincide with [~~municipal~~ regular ~~general~~] election polling places whenever feasible.

(b) The county clerk may consolidate two or more polling places to enable voters from more than one district to vote at one consolidated polling place.

(c) (i) Subject to Subsections (4)(f) and (g), the number of polling places under Subsection (2)(a)(ii) in an election of board members of an irrigation district shall be one polling place per division of the district, designated by the district board.

(ii) Each polling place designated by an irrigation district board under Subsection (2)(c)(i) shall coincide with a polling place designated by the county clerk under Subsection (2)(a)(ii).

(3) (a) The clerk of each local district with a board member position to be filled at the next [~~municipal~~ regular ~~general~~] election shall provide notice of:

(i) each elective position of the local district to be filled at the next [~~municipal~~ regular ~~general~~] election;

(ii) the constitutional and statutory qualifications for each position; and

(iii) the dates and times for filing a declaration of candidacy.

(b) The notice required under Subsection (3)(a) shall be:

(i) posted in at least five public places within the local district at least 10 days before the first day for filing a declaration of candidacy; or

(ii) (A) published in a newspaper of general circulation within the local district at least

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three but no more than 10 days before the first day for filing a declaration of candidacy; and

(B) published, in accordance with Section 45-1-101, for 10 days before the first day for filing a declaration of candidacy.

(4) (a) To become a candidate for an elective local district board position, the prospective candidate shall file a declaration of candidacy in person with the local district ~~{}, {}~~.

~~—— (i) if the local district does not authorize a primary election under Subsection (5), during office hours [and not later than the close of normal office hours between June 1 and June 7 of any {} odd-numbered {} even-numbered} year {.;} or~~

~~—— (ii) if~~], within the candidate filing period for the applicable election year in which the election for the local district ~~{authorizes a primary election under Subsection (5), before the} board is held.~~

(b) When [June 7 is] the candidate filing deadline {established for a county office at the regular general election under Section 20A-9-202.

~~—— (b) When June 7 is~~ falls on a Saturday, Sunday, or holiday, the filing time shall be extended until the close of normal office hours on the following regular business day.

(c) (i) Before the filing officer may accept any declaration of candidacy, the filing officer shall:

(A) read to the prospective candidate the constitutional and statutory qualification requirements for the office that the candidate is seeking; and

(B) require the candidate to state whether or not the candidate meets those requirements.

(ii) If the prospective candidate does not meet the qualification requirements for the office, the filing officer may not accept the declaration of candidacy.

(iii) If it appears that the prospective candidate meets the requirements of candidacy, the filing officer shall accept the declaration of candidacy.

(d) The declaration of candidacy shall substantially comply with the following form:

"I, (print name) _____, being first duly sworn, say that I reside at (Street) _____, City of _____, County of _____, State of Utah, (Zip Code) _____, (Telephone Number, if any) _____; that I meet the qualifications for the office of board of trustees member for _____ (state the name of

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the local district); that I am a candidate for that office to be voted upon at the next election, and I hereby request that my name be printed upon the official ballot for that election.

(Signed) _____

Subscribed and sworn to (or affirmed) before me by _____ on this _____ day of _____, ____.

(Signed) _____

(Clerk or Notary Public)"

(e) Each person wishing to become a valid write-in candidate for an elective local district board position is governed by Section 20A-9-601.

(f) If at least one person does not file a declaration of candidacy as required by this section, a person shall be appointed to fill that board position by following the procedures and requirements for appointment established in Section 20A-1-512.

(g) If only one candidate files a declaration of candidacy and there is no write-in candidate who complies with Section 20A-9-601, the board, in accordance with Section 20A-1-206, may:

- (i) consider the candidate to be elected to the position; and
- (ii) cancel the election.

(5) (a) A primary election may be held if:

(i) the election is authorized by the local district board ~~{ before February 1 of the year in which the primary election is to be held }~~; and

(ii) the number of candidates for a particular local board position or office exceeds twice the number of persons needed to fill that position or office.

(b) The primary election shall be conducted:

(i) on the same date as the ~~{ } municipal { } regular }~~ primary election ~~[, as provided for in Section 20A-1-201.5]~~ or the regular general election, as applicable; and

(ii) according to the procedures for ~~[municipal { } regular] primary elections~~ election provided under Title 20A, Election Code.

(6) (a) Except as provided in Subsection (6)(c), within one business day after the ~~{ filing }~~ deadline for filing a declaration of candidacy, the local district clerk shall certify the candidate names to the clerk of each county in which the local district is located ~~[no later than June 12 of the municipal election year]~~.

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(b) (i) Except as provided in Subsection (6)(c) and in accordance with Section 20A-6-305, the clerk of each county in which the local district is located shall coordinate the placement of the name of each candidate for local district office in the nonpartisan section of the [~~municipal~~ ~~{}~~ ~~regular~~ ~~}~~ general election] ballot ~~{}~~ with the [~~municipal election clerk~~] election officer.

(ii) If consolidation of the local district election ballot with the ~~{}~~ municipal ~~{}~~ regular ~~}~~ general election ballot or the regular general election ballot, as applicable, is not feasible, the county clerk shall provide for a separate local district election ballot to be administered by poll workers at polling locations designated under Subsection (2).

(c) (i) Subsections (6)(a) and (b) do not apply to an election of a member of the board of an irrigation district established under Chapter 2a, Part 5, Irrigation District Act.

(ii) (A) Subject to Subsection (6)(c)(ii)(B), the board of each irrigation district shall prescribe the form of the ballot for each board member election.

(B) Each ballot for an election of an irrigation district board member shall be in a nonpartisan format.

(C) The name of each candidate shall be placed on the ballot in the order specified under Section 20A-6-305.

(7) (a) Each voter at an election for a board of trustees member of a local district shall:

(i) be a registered voter within the district, except for an election of:

(A) an irrigation district board of trustees member; or

(B) a basic local district board of trustees member who is elected by property owners;

and

(ii) meet the requirements to vote established by the district.

(b) Each voter may vote for as many candidates as there are offices to be filled.

(c) The candidates who receive the highest number of votes are elected.

(8) Except as otherwise provided by this section, the election of local district board members is governed by Title 20A, Election Code.

(9) (a) [~~A~~] Except as provided in Subsection 17B-1-303(8), a person elected to serve on a local district board shall serve a four-year term, beginning at noon on the January 1 after the person's election.

(b) A person elected shall be sworn in as soon as practical after January 1.

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(10) (a) Except as provided in Subsection (10)(b), each local district shall reimburse the county or municipality holding an election under this section for the costs of the election attributable to that local district.

(b) Each irrigation district shall bear its own costs of each election it holds under this section.

(11) This section does not apply to an improvement district that provides electric or gas service.

(12) Except as provided in Subsection 20A-3-605(1)(b), the provisions of Title 20A, Chapter 3, Part 6, Early Voting, do not apply to an election under this section.

(13) (a) As used in this Subsection (13), "board" means:

(i) a local district board; or

(ii) the administrative control board of a special service district that has elected members on the board.

(b) A board may hold elections for membership on the board at a regular general election instead of a municipal general election if the board submits an application to the lieutenant governor that:

(i) requests permission to hold elections for membership on the board at a regular general election instead of a municipal general election; and

(ii) indicates that holding elections at the time of the regular general election is beneficial, based on potential cost savings, a potential increase in voter turnout, or another material reason.

(c) Upon receipt of an application described in Subsection (13)(b), the lieutenant governor may approve the application if the lieutenant governor concludes that holding the elections at the regular general election is beneficial based on the criteria described in Subsection (13)(b)(ii).

(d) If the lieutenant governor approves a board's application described in this section:

(i) all future elections for membership on the board shall be held at the time of the regular general election; and

(ii) the board may not hold elections at the time of a municipal general election unless the board receives permission from the lieutenant governor to hold all future elections for membership on the board at a municipal general election instead of a regular general election.

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under the same procedure, and by applying the same criteria, described in this Subsection (13).

Section 5. Section **17B-2a-404** is amended to read:

17B-2a-404. Improvement district board of trustees.

(1) As used in this section:

(a) "County district" means an improvement district that does not include within its boundaries any territory of a municipality.

(b) "County member" means a member of a board of trustees of a county district.

(c) "Electric district" means an improvement district that was created for the purpose of providing electric service.

(d) "Included municipality" means a municipality whose boundaries are entirely contained within but do not coincide with the boundaries of an improvement district.

(e) "Municipal district" means an improvement district whose boundaries coincide with the boundaries of a single municipality.

(f) "Regular district" means an improvement district that is not a county district, electric district, or municipal district.

(g) "Remaining area" means the area of a regular district that:

(i) is outside the boundaries of an included municipality; and

(ii) includes the area of an included municipality whose legislative body elects, under Subsection (4)(a)(ii), not to appoint a member to the board of trustees of the regular district.

(h) "Remaining area member" means a member of a board of trustees of a regular district who is appointed, or, if applicable, elected to represent the remaining area of the district.

(2) The legislative body of the municipality included within a municipal district may:

(a) elect, at the time of the creation of the district, to be the board of trustees of the district; and

(b) adopt at any time a resolution providing for:

(i) the election of board of trustees members, as provided in Section 17B-1-306; or

(ii) the appointment of board of trustees members, as provided in Section 17B-1-304.

(3) The legislative body of a county whose unincorporated area is partly or completely within a county district may:

(a) elect, at the time of the creation of the district, to be the board of trustees of the

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district; and

(b) adopt at any time a resolution providing for:

(i) the election of board of trustees members, as provided in Section 17B-1-306; or

(ii) the appointment of board of trustees members, as provided in Section 17B-1-304.

(4) (a) (i) Except as provided in Subsection (4)(a)(ii), the legislative body of each included municipality shall each appoint one member to the board of trustees of a regular district.

(ii) The legislative body of an included municipality may elect not to appoint a member to the board under Subsection (4)(a)(i).

(b) Except as provided in Subsection (5), the legislative body of each county whose boundaries include a remaining area shall appoint all other members to the board of trustees of a regular district.

(5) Notwithstanding Subsection (3), each remaining area member of a regular district and each county member of a county district shall be elected, as provided in Section 17B-1-306, if:

(a) the petition or resolution initiating the creation of the district provides for remaining area or county members to be elected;

(b) the district holds an election to approve the district's issuance of bonds;

(c) for a regular district, an included municipality elects, under Subsection (4)(a)(ii), not to appoint a member to the board of trustees; or

(d) (i) at least 90 days before the ~~the~~ municipal ~~the~~ regular general election or regular general election, as applicable, a petition is filed with the district's board of trustees requesting remaining area members or county members, as the case may be, to be elected; and

(ii) the petition is signed by registered voters within the remaining area or county district, as the case may be, equal in number to at least 10% of the number of registered voters within the remaining area or county district, respectively, who voted in the last gubernatorial election.

(6) Subject to Section 17B-1-302, the number of members of a board of trustees of a regular district shall be:

(a) the number of included municipalities within the district, if:

(i) the number is an odd number; and

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(ii) the district does not include a remaining area;

(b) the number of included municipalities plus one, if the number of included municipalities within the district is even; and

(c) the number of included municipalities plus two, if:

(i) the number of included municipalities is odd; and

(ii) the district includes a remaining area.

(7) (a) Except as provided in Subsection (7)(b), each remaining area member of the board of trustees of a regular district shall reside within the remaining area.

(b) Notwithstanding Subsection (7)(a) and subject to Subsection (7)(c), each remaining area member shall be chosen from the district at large if:

(i) the population of the remaining area is less than 5% of the total district population;

or

(ii) (A) the population of the remaining area is less than 50% of the total district population; and

(B) the majority of the members of the board of trustees are remaining area members.

(c) Application of Subsection (7)(b) may not prematurely shorten the term of any remaining area member serving the remaining area member's elected or appointed term on May 11, 2010.

(8) If the election of remaining area or county members of the board of trustees is required because of a bond election, as provided in Subsection (5)(b):

(a) a person may file a declaration of candidacy if:

(i) the person resides within:

(A) the remaining area, for a regular district; or

(B) the county district, for a county district; and

(ii) otherwise qualifies as a candidate;

(b) the board of trustees shall, if required, provide a ballot separate from the bond election ballot, containing the names of candidates and blanks in which a voter may write additional names; and

(c) the election shall otherwise be governed by Title 20A, Election Code.

(9) (a) (i) This Subsection (9) applies to the board of trustees members of an electric district.

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(ii) Subsections (2) through (8) do not apply to an electric district.

(b) The legislative body of the county in which an electric district is located may appoint the initial board of trustees of the electric district as provided in Section 17B-1-304.

(c) After the initial board of trustees is appointed as provided in Subsection (9)(b), each member of the board of trustees of an electric district shall be elected by persons using electricity from and within the district.

(d) Each member of the board of trustees of an electric district shall be a user of electricity from the district and, if applicable, the division of the district from which elected.

(e) The board of trustees of an electric district may be elected from geographic divisions within the district.

(f) A municipality within an electric district is not entitled to automatic representation on the board of trustees.

Section 6. Section **17D-1-106** is amended to read:

17D-1-106. Special service districts subject to other provisions.

(1) A special service district is, to the same extent as if it were a local district, subject to and governed by:

(a) (i) Sections 17B-1-105, 17B-1-107, 17B-1-108, 17B-1-110, 17B-1-111, 17B-1-112, 17B-1-113, 17B-1-116, 17B-1-118, 17B-1-119, 17B-1-120, 17B-1-121, 17B-1-304, [~~17B-1-305, 17B-1-306,~~] 17B-1-307, 17B-1-310, 17B-1-311, 17B-1-312, 17B-1-313, and 17B-1-314; and

(ii) Sections 17B-1-305 and 17B-1-306, to the extent that a county legislative body or a municipal legislative body, as applicable, has delegated authority to ~~elect officers of~~ an administrative control board with elected members, under Section 17D-1-301 ~~and~~

~~(iii) Sections 17B-1-305 and 17B-1-306, to the extent that a municipal legislative body has delegated authority to elected officers of an administrative control board under Section 17D-1-301, except that each reference to a regular general election in Sections 17B-1-305 and 17B-1-306 means a municipal general election;~~

~~(b) except as provided by Subsection (3).~~

(b) Subsections:

(i) 17B-1-301(3) and (4); and

(ii) 17B-1-303(1), (2)(a) and (b), (3), (4), (5), (6), ~~and (7),~~ and ~~(8)~~;

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- (c) Section 20A-1-512;
- (d) Title 17B, Chapter 1, Part 6, Fiscal Procedures for Local Districts;
- (e) Title 17B, Chapter 1, Part 7, Local District Budgets and Audit Reports;
- (f) Title 17B, Chapter 1, Part 8, Local District Personnel Management; and
- (g) Title 17B, Chapter 1, Part 9, Collection of Service Fees and Charges.

(2) For purposes of applying the provisions listed in Subsection (1) to a special service district, each reference in those provisions to the local district board of trustees means the governing body ~~{ and each reference to a local district means a special service district }~~.

~~{ (3) For a municipal legislative body, to the extent that the municipal legislative body has delegated authority to elected members of an administrative control board under Section 17D-1-301:~~

~~— (a) each reference to a regular general election in Subsection 17B-1-301(3) means a municipal general election, and~~

~~— (b) Subsection 17B-1-303(8) does not apply to the special service district's governing body.~~

† Section 7. Section **20A-1-102** is amended to read:

20A-1-102. Definitions.

As used in this title:

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

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

(3) (a) "Ballot" means the storage medium, whether paper, mechanical, or electronic, upon which a voter records the voter's votes.

(b) "Ballot" includes ballot sheets, paper ballots, electronic ballots, and secrecy envelopes.

(4) "Ballot sheet":

(a) means a ballot that:

(i) consists of paper or a card where the voter's votes are marked or recorded; and

(ii) can be counted using automatic tabulating equipment; and

(b) includes punch card ballots and other ballots that are machine-countable.

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(5) "Ballot label" means the cards, papers, booklet, pages, or other materials that:

(a) contain the names of offices and candidates and statements of ballot propositions to be voted on; and

(b) are used in conjunction with ballot sheets that do not display that information.

(6) "Ballot proposition" means a question, issue, or proposal that is submitted to voters on the ballot for their approval or rejection including:

(a) an opinion question specifically authorized by the Legislature;

(b) a constitutional amendment;

(c) an initiative;

(d) a referendum;

(e) a bond proposition;

(f) a judicial retention question;

(g) an incorporation of a city or town; or

(h) any other ballot question specifically authorized by the Legislature.

(7) "Bind," "binding," or "bound" means securing more than one piece of paper together with a staple or stitch in at least three places across the top of the paper in the blank space reserved for securing the paper.

(8) "Board of canvassers" means the entities established by Sections 20A-4-301 and 20A-4-306 to canvass election returns.

(9) "Bond election" means an election held for the purpose of approving or rejecting the proposed issuance of bonds by a government entity.

(10) "Book voter registration form" means voter registration forms contained in a bound book that are used by election officers and registration agents to register persons to vote.

(11) "Business reply mail envelope" means an envelope that may be mailed free of charge by the sender.

(12) "By-mail voter registration form" means a voter registration form designed to be completed by the voter and mailed to the election officer.

(13) "Canvass" means the review of election returns and the official declaration of election results by the board of canvassers.

(14) "Canvassing judge" means a poll worker designated to assist in counting ballots at the canvass.

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(15) "Contracting election officer" means an election officer who enters into a contract or interlocal agreement with a provider election officer.

(16) "Convention" means the political party convention at which party officers and delegates are selected.

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

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

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

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

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

(22) "Date of the election" or "election day" or "day of the election":

(a) means the day that is specified in the calendar year as the day that the election occurs; and

(b) does not include:

(i) deadlines established for absentee voting; or

(ii) any early voting or early voting period as provided under Chapter 3, Part 6, Early Voting.

(23) "Elected official" means:

(a) a person elected to an office under Section 20A-1-303;

(b) a person who is considered to be elected to a municipal office in accordance with Subsection 20A-1-206(1)(c)(ii); or

(c) a person who is considered to be elected to a local district office in accordance with Subsection 20A-1-206(3)(c)(ii).

(24) "Election" means a regular general election, a municipal general election, a statewide special election, a local special election, a regular primary election, a municipal primary election, and a local district election.

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

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

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

- (a) preside over other poll workers at a polling place;
- (b) act as the presiding election judge; or
- (c) serve as a canvassing judge, counting judge, or receiving judge.

(28) "Election officer" means:

- (a) the lieutenant governor, for all statewide ballots and elections;
- (b) the county clerk for:
 - (i) a county ballot and election; and
 - (ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5;

(c) the municipal clerk for:

- (i) a municipal ballot and election; and
- (ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5;

(d) the local district clerk or chief executive officer for:

- (i) a local district ballot and election; and
- (ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5; or

(e) the business administrator or superintendent of a school district for:

- (i) a school district ballot and election; and
- (ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5.

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

(30) "Election results" means:

(a) for an election other than a bond election, the count of votes cast in the election and the election returns requested by the board of canvassers; or

(b) for bond elections, the count of those votes cast for and against the bond

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proposition plus any or all of the election returns that the board of canvassers may request.

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

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

(33) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

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

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

(35) "Inactive voter" means a registered voter who has:

(a) been sent the notice required by Section 20A-2-306; and

(b) failed to respond to that notice.

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

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

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

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

(40) "Local district officers" means those local district ~~officers~~ board members that are required by law to be elected.

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

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

(43) "Local special election" means a special election called by the governing body of a local political subdivision in which all registered voters of the local political subdivision may

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vote.

(44) "Municipal executive" means:

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

or

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

(45) "Municipal general election" means the election held in municipalities ~~and~~ and, as applicable, local districts ~~and~~ on the first Tuesday after the first Monday in November of each odd-numbered year for the purposes established in Section 20A-1-202.

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

(47) "Municipal office" means an elective office in a municipality.

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

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

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

(51) "Official endorsement" means:

(a) the information on the ballot that identifies:

(i) the ballot as an official ballot;

(ii) the date of the election; and

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

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

(i) the poll worker's initials; and

(ii) the ballot number.

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

(53) "Paper ballot" means a paper that contains:

(a) the names of offices and candidates and statements of ballot propositions to be voted on; and

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(b) spaces for the voter to record the voter's vote for each office and for or against each ballot proposition.

(54) "Political party" means an organization of registered voters that has qualified to participate in an election by meeting the requirements of Chapter 8, Political Party Formation and Procedures.

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

(b) "Poll worker" includes election judges.

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

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

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

(58) "Position" means a square, circle, rectangle, or other geometric shape on a ballot in which the voter marks the voter's choice.

~~[(62)]~~ (59) "Primary convention" means the political party conventions at which nominees for the regular primary election are selected.

~~[(63)]~~ (60) "Protective counter" means a separate counter, which cannot be reset, that:

(a) is built into a voting machine; and

(b) records the total number of movements of the operating lever.

~~[(59)]~~ (61) "Provider election officer" means an election officer who enters into a contract or interlocal agreement with a contracting election officer to conduct an election for the contracting election officer's local political subdivision in accordance with Section 20A-5-400.1.

~~[(60)]~~ (62) "Provisional ballot" means a ballot voted provisionally by a person:

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

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

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

~~[(61)]~~ (63) "Provisional ballot envelope" means an envelope printed in the form required by Section 20A-6-105 that is used to identify provisional ballots and to provide information to verify a person's legal right to vote.

(64) "Qualify" or "qualified" means to take the oath of office and begin performing the

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duties of the position for which the person was elected.

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

(66) "Registration form" means a book voter registration form and a by-mail voter registration form.

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

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

(69) "Regular primary election" means the election on the fourth Tuesday of June of each even-numbered year, to nominate candidates of political parties and nonpolitical groups to advance to the regular general election.

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

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

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

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

(74) "Special election" means an election held as authorized by Section 20A-1-203.

(75) "Spoiled ballot" means each ballot that:

- (a) is spoiled by the voter;
- (b) is unable to be voted because it was spoiled by the printer or a poll worker; or
- (c) lacks the official endorsement.

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

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

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

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

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

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

(82) "Valid voter identification" means:

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

- (i) a currently valid Utah driver license;
- (ii) a currently valid identification card that is issued by:
 - (A) the state; or
 - (B) a branch, department, or agency of the United States;
- (iii) a currently valid Utah permit to carry a concealed weapon;
- (iv) a currently valid United States passport; or
- (v) a currently valid United States military identification card;

(b) one of the following identification cards, whether or not the card includes a photograph of the voter:

- (i) a valid tribal identification card;
- (ii) a Bureau of Indian Affairs card; or
- (iii) a tribal treaty card; or

(c) two forms of identification not listed under Subsection (82)(a) or (b) but that bear the name of the voter and provide evidence that the voter resides in the voting precinct, which may include:

- (i) a current utility bill or a legible copy thereof, dated within the 90 days before the election;
- (ii) a bank or other financial account statement, or a legible copy thereof;
- (iii) a certified birth certificate;
- (iv) a valid Social Security card;
- (v) a check issued by the state or the federal government or a legible copy thereof;

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- (vi) a paycheck from the voter's employer, or a legible copy thereof;
- (vii) a currently valid Utah hunting or fishing license;
- (viii) certified naturalization documentation;
- (ix) a currently valid license issued by an authorized agency of the United States;
- (x) a certified copy of court records showing the voter's adoption or name change;
- (xi) a valid Medicaid card, Medicare card, or Electronic Benefits Transfer Card;
- (xii) a currently valid identification card issued by:
 - (A) a local government within the state;
 - (B) an employer for an employee; or
 - (C) a college, university, technical school, or professional school located within the state; or

(xiii) a current Utah vehicle registration.

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

(84) "Voter" means a person who:

- (a) meets the requirements for voting in an election;
- (b) meets the requirements of election registration;
- (c) is registered to vote; and
- (d) is listed in the official register book.

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

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

(87) "Voting booth" means:

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

(b) a voting device that is free standing.

(88) "Voting device" means:

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

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

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

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

(e) any other method for recording votes on ballots so that the ballot may be tabulated by means of automatic tabulating equipment.

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

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

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

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

(93) "Western States Presidential Primary" means the election established in Chapter 9, Part 8, Western States Presidential Primary.

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

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

Section 8. Section **20A-1-201** is amended to read:

20A-1-201. Date and purpose of regular general elections.

(1) A regular general election shall be held throughout the state on the first Tuesday after the first Monday in November of each even-numbered year.

(2) At the regular general election, the voters shall:

(a) choose persons to serve the terms established by law for the following offices:

(i) electors of President and Vice President of the United States;

(ii) United States Senators;

(iii) Representatives to the United States Congress;

(iv) governor, lieutenant governor, attorney general, state treasurer, and state auditor;

(v) senators and representatives to the Utah Legislature;

(vi) county officers;

(vii) State School Board members;

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(viii) local school board members; ~~and~~

(ix) except as provided ~~by~~ in Subsection (3), local district officers; and

~~(ix*)~~ (x) any elected judicial officers; and

(b) approve or reject:

(i) any proposed amendments to the Utah Constitution that have qualified for the ballot under procedures established in the Utah Code;

(ii) any proposed initiatives or referenda that have qualified for the ballot under procedures established in the Utah Code; and

(iii) any other ballot propositions submitted to the voters that are authorized by the Utah Code.

(3) ~~In~~ This section:

(a) applies to a special service district ~~, this section:~~

~~— (a) does not apply to; for which~~ the county legislative body or the municipal legislative body ~~having~~, as applicable, has delegated authority ~~over~~ for the special service district ~~;~~ and

~~— (b) applies~~ to an administrative control board ~~of a~~; and

(b) does not apply to a special service district for which the county legislative body or the municipal legislative body, as applicable, has not delegated authority for the special service district to ~~the extent that a county or municipal legislative body has delegated authority to elected members of the~~ an administrative control board ~~under Section 17D-1-301~~.

Section 9. Section **20A-1-202** is amended to read:

20A-1-202. Date and purpose of municipal general election.

(1) Except as provided in Section 20A-1-206, a municipal general election shall be held in municipalities ~~and~~ and local districts ~~and in special service districts governed by the legislative body of a municipality that has delegated authority to an elected member of an administrative control board under Section 17D-1-301~~ as applicable, on the first Tuesday after the first Monday in November of each odd-numbered year.

(2) At the municipal general election, the voters shall:

(a) (i) choose persons to serve as municipal officers; and

~~(ii)~~ (ii) for a local district that holds an election during an odd-numbered year, choose persons to serve as local district officers; and ~~(ii)~~

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~~_____ (ii) to the extent that a municipal legislative body has delegated authority to an elected member of an administrative control board under Section 17D-1-301, choose the elected members of the administrative control board; and }~~

(b) approve or reject:

(i) any proposed initiatives or referenda that have qualified for the ballot as provided by law; and

(ii) any other ballot propositions submitted to the voters that are authorized by the Utah Code.

Section 10. Section ~~{20A-3-101}~~ 20A-5-101 is amended to read:

~~{ _____ 20A-3-101. Residency and age requirements of voters.~~

~~_____ (1) [A] Subject to Subsection (3), for a local district election, a person may vote in any regular general election or statewide special election if that person has registered to vote in accordance with Title 20A, Chapter 2, Voter Registration.~~

~~_____ (2) A person may vote in the Western States Presidential Primary election or a regular primary election if:~~

~~_____ (a) that person has registered to vote in accordance with Title 20A, Chapter 2, Voter Registration; and~~

~~_____ (b) that person's political party affiliation, or unaffiliated status, allows the person to vote in the election.~~

~~_____ (3) A person may vote in a municipal general election, municipal primary, in a local special election, in a local district election, and in a bond election if that person:~~

~~_____ (a) has registered to vote in accordance with Title 20A, Chapter 2, Voter Registration; and~~

~~_____ (b) is a resident of a voting district or precinct within the local entity that is holding the election.~~

~~_____ Section 11. Section 20A-5-101 is amended to read:~~

~~† **20A-5-101. Notice of election.**~~

(1) On or before February 1 in each regular general election year, the lieutenant governor shall prepare and transmit a written notice to each county clerk that:

(a) designates the offices to be filled at the regular general election;

(b) identifies the dates for filing a declaration of candidacy for those offices;

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(c) includes the master ballot position list for the current year and the next year as established under Section 20A-6-305; and

(d) contains a description of any ballot propositions to be decided by the voters that have qualified for the ballot as of that date.

(2) (a) No later than February 15, each county clerk shall:

(i) publish a notice:

(A) once in a newspaper published in that county; and

(B) as required in Section 45-1-101; or

(ii) (A) cause a copy of the notice to be posted in a conspicuous place most likely to give notice of the election to the voters in each voting precinct within the county; and

(B) prepare an affidavit of that posting, showing a copy of the notice and the places where the notice was posted.

(b) The notice required by Subsection (2)(a) shall:

(i) designate the offices to be voted on in that election [~~in that county~~], ~~other than local district offices~~]; and

(ii) identify the dates for filing a declaration of candidacy for those offices.

(3) Before each election, the election officer shall give written or printed notice of:

(a) the date and place of election;

(b) the hours during which the polls will be open;

(c) the polling places for each voting precinct;

(d) an election day voting center designated under Section 20A-3-703; and

(e) the qualifications for persons to vote in the election.

(4) To provide the notice required by Subsection (3), the election officer shall publish the notice at least two days before the election:

(a) in a newspaper of general circulation common to the area or in which the election is being held; and

(b) as required in Section 45-1-101.

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Legislative Review Note

~~as of 2-24-14 5:34 PM~~

~~Office of Legislative Research and General Counsel~~