

INACTIVE VOTER AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Craig Hall

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions of the Election Code relating to inactive voters.

Highlighted Provisions:

This bill:

- ▶ permits a county clerk to list a voter as inactive if the county clerk receives a returned voter identification card, determines that there was no clerical error causing the card to be returned, and has no further information to contact the voter;
- ▶ repeals the authority of a county clerk to remove a voter described in the preceding paragraph from the official register; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

20A-1-102, as last amended by Laws of Utah 2015, Chapters 296, 352, and 392

20A-2-305, as last amended by Laws of Utah 2012, Chapters 33 and 52

20A-2-306, as last amended by Laws of Utah 2014, Chapter 373



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

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

30 **20A-1-102. Definitions.**

31 As used in this title:

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

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

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

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

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

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

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

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

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

47 (b) a constitutional amendment;

48 (c) an initiative;

49 (d) a referendum;

50 (e) a bond proposition;

51 (f) a judicial retention question;

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

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

54 (6) "Ballot sheet":

55 (a) means a ballot that:

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

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

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

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

62 (8) "Board of canvassers" means the entities established by Sections [20A-4-301](#) and
63 [20A-4-306](#) to canvass election returns.

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

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

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

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

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

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

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

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

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

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

84 (19) "Counting poll watcher" means a person selected as provided in Section
85 [20A-3-201](#) to witness the counting of ballots.

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

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

90 elected.

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

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

94 (b) does not include:

95 (i) deadlines established for absentee voting; or

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

98 (23) "Elected official" means:

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

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

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

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

107 (25) "Election Assistance Commission" means the commission established by [~~Public~~
108 ~~Law 107-252;~~] the Help America Vote Act of 2002, Pub. L. No. 107-252.

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

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

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

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

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

115 (28) "Election officer" means:

116 (a) the lieutenant governor, for all statewide ballots and elections;

117 (b) the county clerk for:

118 (i) a county ballot and election; and

119 (ii) a ballot and election as a provider election officer as provided in Section
120 20A-5-400.1 or 20A-5-400.5;

- 121 (c) the municipal clerk for:
- 122 (i) a municipal ballot and election; and
- 123 (ii) a ballot and election as a provider election officer as provided in Section
- 124 [20A-5-400.1](#) or [20A-5-400.5](#);
- 125 (d) the local district clerk or chief executive officer for:
- 126 (i) a local district ballot and election; and
- 127 (ii) a ballot and election as a provider election officer as provided in Section
- 128 [20A-5-400.1](#) or [20A-5-400.5](#); or
- 129 (e) the business administrator or superintendent of a school district for:
- 130 (i) a school district ballot and election; and
- 131 (ii) a ballot and election as a provider election officer as provided in Section
- 132 [20A-5-400.1](#) or [20A-5-400.5](#).
- 133 (29) "Election official" means any election officer, election judge, or poll worker.
- 134 (30) "Election results" means:
- 135 (a) for an election other than a bond election, the count of votes cast in the election and
- 136 the election returns requested by the board of canvassers; or
- 137 (b) for bond elections, the count of those votes cast for and against the bond
- 138 proposition plus any or all of the election returns that the board of canvassers may request.
- 139 (31) "Election returns" includes the pollbook, the military and overseas absentee voter
- 140 registration and voting certificates, one of the tally sheets, any unprocessed absentee ballots, all
- 141 counted ballots, all excess ballots, all unused ballots, all spoiled ballots, the ballot disposition
- 142 form, and the total votes cast form.
- 143 (32) "Electronic ballot" means a ballot that is recorded using a direct electronic voting
- 144 device or other voting device that records and stores ballot information by electronic means.
- 145 (33) "Electronic signature" means an electronic sound, symbol, or process attached to
- 146 or logically associated with a record and executed or adopted by a person with the intent to sign
- 147 the record.
- 148 (34) (a) "Electronic voting device" means a voting device that uses electronic ballots.
- 149 (b) "Electronic voting device" includes a direct recording electronic voting device.
- 150 (35) "Inactive voter" means a registered voter who [~~has: (a) been sent the notice~~
- 151 ~~required by Section [20A-2-306](#); and (b) failed to respond to that notice.~~] is listed as inactive by

152 a county clerk under Subsection [20A-2-306\(4\)\(c\)\(i\)](#) or (ii).

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

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

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

158 (39) "Local district" means a local government entity under Title 17B, Limited Purpose
159 Local Government Entities - Local Districts, and includes a special service district under Title
160 17D, Chapter 1, Special Service District Act.

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

163 (41) "Local election" means a regular county election, a regular municipal election, a
164 municipal primary election, a local special election, a local district election, and a bond
165 election.

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

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

171 (44) "Municipal executive" means:

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

173 (b) the mayor in the council-manager form of government defined in Subsection
174 [10-3b-103\(7\)](#); or

175 (c) the chair of a metro township form of government defined in Section [10-3b-102](#).

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

179 (46) "Municipal legislative body" means:

180 (a) the council of the city or town in any form of municipal government; or

181 (b) the council of a metro township.

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

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

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

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

189 (51) "Official endorsement" means:

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

191 (i) the ballot as an official ballot;

192 (ii) the date of the election; and

193 (iii) (A) for a ballot prepared by an election officer other than a county clerk, the
194 facsimile signature required by Subsection [20A-6-401\(1\)\(b\)\(iii\)](#); or

195 (B) for a ballot prepared by a county clerk, the words required by Subsection
196 [20A-6-301\(1\)\(c\)\(iii\)](#); and

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

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

199 (ii) the ballot number.

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

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

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

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

207 (54) "Pilot project" means the election day voter registration pilot project created in
208 Section [20A-4-108](#).

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

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

- 214 (57) "Polling place" means the building where voting is conducted.
- 215 (58) (a) "Poll worker" means a person assigned by an election official to assist with an
216 election, voting, or counting votes.
- 217 (b) "Poll worker" includes election judges.
- 218 (c) "Poll worker" does not include a watcher.
- 219 (59) "Position" means a square, circle, rectangle, or other geometric shape on a ballot
220 in which the voter marks the voter's choice.
- 221 (60) "Primary convention" means the political party conventions held during the year
222 of the regular general election.
- 223 (61) "Protective counter" means a separate counter, which cannot be reset, that:
224 (a) is built into a voting machine; and
225 (b) records the total number of movements of the operating lever.
- 226 (62) "Provider election officer" means an election officer who enters into a contract or
227 interlocal agreement with a contracting election officer to conduct an election for the
228 contracting election officer's local political subdivision in accordance with Section
229 [20A-5-400.1](#).
- 230 (63) "Provisional ballot" means a ballot voted provisionally by a person:
231 (a) whose name is not listed on the official register at the polling place;
232 (b) whose legal right to vote is challenged as provided in this title; or
233 (c) whose identity was not sufficiently established by a poll worker.
- 234 (64) "Provisional ballot envelope" means an envelope printed in the form required by
235 Section [20A-6-105](#) that is used to identify provisional ballots and to provide information to
236 verify a person's legal right to vote.
- 237 (65) "Qualify" or "qualified" means to take the oath of office and begin performing the
238 duties of the position for which the person was elected.
- 239 (66) "Receiving judge" means the poll worker that checks the voter's name in the
240 official register, provides the voter with a ballot, and removes the ballot stub from the ballot
241 after the voter has voted.
- 242 (67) "Registration form" means a book voter registration form and a by-mail voter
243 registration form.
- 244 (68) "Regular ballot" means a ballot that is not a provisional ballot.

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

248 (70) "Regular primary election" means the election on the fourth Tuesday of June of
249 each even-numbered year, to nominate candidates of political parties and candidates for
250 nonpartisan local school board positions to advance to the regular general election.

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

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

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

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

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

261 (76) "Spoiled ballot" means each ballot that:

262 (a) is spoiled by the voter;

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

264 (c) lacks the official endorsement.

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

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

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

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

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

274 (82) "Vacancy" means the absence of a person to serve in any position created by
275 statute, whether that absence occurs because of death, disability, disqualification, resignation,

276 or other cause.

277 (83) "Valid voter identification" means:

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

280 (i) a currently valid Utah driver license;

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

282 (A) the state; or

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

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

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

286 (v) a currently valid United States military identification card;

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

288 photograph of the voter:

289 (i) a valid tribal identification card;

290 (ii) a Bureau of Indian Affairs card; or

291 (iii) a tribal treaty card; or

292 (c) two forms of identification not listed under Subsection (83)(a) or (b) but that bear
293 the name of the voter and provide evidence that the voter resides in the voting precinct, which
294 may include:

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

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

298 (iii) a certified birth certificate;

299 (iv) a valid Social Security card;

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

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

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

303 (viii) certified naturalization documentation;

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

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

306 (xi) a valid Medicaid card, Medicare card, or Electronic Benefits Transfer Card;

- 307 (xii) a currently valid identification card issued by:
308 (A) a local government within the state;
309 (B) an employer for an employee; or
310 (C) a college, university, technical school, or professional school located within the
311 state; or
312 (xiii) a current Utah vehicle registration.
- 313 (84) "Valid write-in candidate" means a candidate who has qualified as a write-in
314 candidate by following the procedures and requirements of this title.
- 315 (85) "Voter" means a person who:
316 (a) meets the requirements for voting in an election;
317 (b) meets the requirements of election registration;
318 (c) is registered to vote; and
319 (d) is listed in the official register book.
- 320 (86) "Voter registration deadline" means the registration deadline provided in Section
321 [20A-2-102.5](#).
- 322 (87) "Voting area" means the area within six feet of the voting booths, voting
323 machines, and ballot box.
- 324 (88) "Voting booth" means:
325 (a) the space or compartment within a polling place that is provided for the preparation
326 of ballots, including the voting machine enclosure or curtain; or
327 (b) a voting device that is free standing.
- 328 (89) "Voting device" means:
329 (a) an apparatus in which ballot sheets are used in connection with a punch device for
330 piercing the ballots by the voter;
331 (b) a device for marking the ballots with ink or another substance;
332 (c) an electronic voting device or other device used to make selections and cast a ballot
333 electronically, or any component thereof;
334 (d) an automated voting system under Section [20A-5-302](#); or
335 (e) any other method for recording votes on ballots so that the ballot may be tabulated
336 by means of automatic tabulating equipment.
- 337 (90) "Voting machine" means a machine designed for the sole purpose of recording

338 and tabulating votes cast by voters at an election.

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

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

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

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

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

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

350 Section 2. Section **20A-2-305** is amended to read:

351 **20A-2-305. Removing names from the official register -- General requirements.**

352 (1) The county clerk may not remove a voter's name from the official register because
353 the voter has failed to vote in an election.

354 (2) The county clerk shall remove a voter's name from the official register if:

355 (a) the voter dies and the requirements of Subsection (3) are met;

356 (b) the county clerk, after complying with the requirements of Section [20A-2-306](#),
357 receives written confirmation from the voter that the voter no longer resides within the county
358 clerk's county;

359 (c) the county clerk has:

360 (i) obtained evidence that the voter's residence has changed;

361 (ii) mailed notice to the voter as required by Section [20A-2-306](#);

362 (iii) (A) received no response from the voter; or

363 (B) not received information that confirms the voter's residence; and

364 (iv) the voter has failed to vote or appear to vote in an election during the period
365 beginning on the date of the notice described in Section [20A-2-306](#) and ending on the day after
366 the date of the second regular general election occurring after the date of the notice;

367 (d) the voter requests, in writing, that the voter's name be removed from the official
368 register;

369 ~~[(e) the county clerk receives a returned voter identification card, determines that there~~
370 ~~was no clerical error causing the card to be returned, and has no further information to contact~~
371 ~~the voter;]~~

372 [(f)] (e) the county clerk receives notice that a voter has been convicted of any felony
373 or a misdemeanor for an offense under this title and the voter's right to vote has not been
374 restored as provided in Section 20A-2-101.3 or 20A-2-101.5; or

375 [(g)] (f) the county clerk receives notice that a voter has registered to vote in another
376 state after the day on which the voter registered to vote in this state.

377 (3) The county clerk shall remove a voter's name from the registration list within 21
378 days of receipt of confirmation from the Department of Health's Bureau of Vital Records that a
379 voter is deceased.

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

381 **20A-2-306. Removing names from the official register -- Determining and**
382 **confirming change of residence.**

383 (1) A county clerk may not remove a voter's name from the official register on the
384 grounds that the voter has changed residence unless the voter:

385 (a) confirms in writing that the voter has changed residence to a place outside the
386 county; or

387 (b) (i) has not voted in an election during the period beginning on the date of the notice
388 required by Subsection (3), and ending on the day after the date of the second regular general
389 election occurring after the date of the notice; and

390 (ii) has failed to respond to the notice required by Subsection (3).

391 (2) (a) When a county clerk obtains information that a voter's address has changed and
392 it appears that the voter still resides within the same county, the county clerk shall:

393 (i) change the official register to show the voter's new address; and

394 (ii) send to the voter, by forwardable mail, the notice required by Subsection (3)
395 printed on a postage prepaid, preaddressed return form.

396 (b) When a county clerk obtains information that a voter's address has changed and it
397 appears that the voter now resides in a different county, the county clerk shall verify the
398 changed residence by sending to the voter, by forwardable mail, the notice required by
399 Subsection (3) printed on a postage prepaid, preaddressed return form.

400 (3) Each county clerk shall use substantially the following form to notify voters whose
401 addresses have changed:

402 "VOTER REGISTRATION NOTICE

403 We have been notified that your residence has changed. Please read, complete, and
404 return this form so that we can update our voter registration records. What is your current
405 street address?

406 _____
407 Street City County State Zip

408 If you have not changed your residence or have moved but stayed within the same
409 county, you must complete and return this form to the county clerk so that it is received by the
410 county clerk no later than 30 days before the date of the election. If you fail to return this form
411 within that time:

412 - you may be required to show evidence of your address to the poll worker before being
413 allowed to vote in either of the next two regular general elections; or

414 - if you fail to vote at least once from the date this notice was mailed until the passing
415 of two regular general elections, you will no longer be registered to vote. If you have changed
416 your residence and have moved to a different county in Utah, you may register to vote by
417 contacting the county clerk in your county.

418 _____
419 Signature of Voter"

420 "The portion of a voter registration form that lists a person's driver license or
421 identification card number, social security number, and email address is a private record. The
422 portion of a voter registration form that lists a person's date of birth is a private record, the use
423 of which is restricted to government officials, government employees, political parties, or
424 certain other persons.

425 If you believe that disclosure of any information contained in this voter registration
426 form to a person other than a government official or government employee is likely to put you
427 or a member of your household's life or safety at risk, or to put you or a member of your
428 household at risk of being stalked or harassed, you may apply to the lieutenant governor or your
429 county clerk to have your entire voter registration record classified as private."

430 (4) (a) Except as provided in Subsection (4)(b), the county clerk may not remove the

431 names of any voters from the official register during the 90 days before a regular primary
432 election and the 90 days before a regular general election.

433 (b) The county clerk may remove the names of voters from the official register during
434 the 90 days before a regular primary election and the 90 days before a regular general election
435 if:

436 (i) the voter requests, in writing, that the voter's name be removed; or

437 (ii) the voter has died.

438 (c) (i) After a county clerk mails a notice as required in this section, the county clerk
439 may list that voter as inactive.

440 (ii) If a county clerk receives a returned voter identification card, determines that there
441 was no clerical error causing the card to be returned, and has no further information to contact
442 the voter, the county clerk may list that voter as inactive.

443 [~~(ii)~~] (iii) An inactive voter shall be allowed to vote, sign petitions, and have all other
444 privileges of a registered voter.

445 [~~(iii)~~] (iv) A county is not required to send routine mailings to an inactive [~~voters~~]
446 voter and is not required to count inactive voters when dividing precincts and preparing
447 supplies.

Legislative Review Note
Office of Legislative Research and General Counsel