

HB0334S01 compared with HB0334

- ▶ to the Governor's Office -- Lieutenant Governor's Office, as a one-time appropriation:
 - from the General Fund, \$2,500,000 subject to intent language stating that the appropriation is non-lapsing and restricting the use of funds to a specific program.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

20A-3-105, as last amended by Laws of Utah 2007, Chapter 75

20A-5-402.5, as last amended by Laws of Utah 2010, Chapter 8

20A-5-402.7, as last amended by Laws of Utah 2010, Chapter 286

63I-2-220, as last amended by Laws of Utah 2014, Chapter 3

ENACTS:

20A-5-402.9, Utah Code Annotated 1953

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

Section 1. Section **20A-3-105** is amended to read:

20A-3-105. Marking and depositing ballots.

(1) (a) If a paper ballot is used, the voter, upon receipt of the ballot, shall go to a voting booth and prepare the voter's ballot by marking the appropriate position with a mark opposite the name of each candidate of the voter's choice for each office to be filled.

(b) A mark is not required opposite the name of a write-in candidate.

(c) If a ballot proposition is submitted to a vote of the people, the voter shall mark in the appropriate square with a mark opposite the answer the voter intends to make.

(d) Before leaving the booth, the voter shall:

(i) fold the ballot so that its contents are concealed and the stub can be removed; and

(ii) if the ballot is a provisional ballot, place the ballot in the provisional ballot envelope and complete the information printed on the envelope.

(2) (a) (i) If a punch card ballot is used, the voter shall insert the ballot sheet into the voting device and mark the ballot sheet according to the instructions provided on the device.

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(ii) If the voter is issued a ballot sheet with a long stub without a secrecy envelope, the voter shall record any write-in votes on the long stub.

(iii) If the voter is issued a ballot sheet with a secrecy envelope, the voter shall record any write-in votes on the secrecy envelope.

(b) After the voter has marked the ballot sheet, the voter shall either:

(i) place the ballot sheet inside the secrecy envelope, if one is provided; or

(ii) fold the long stub over the face of the ballot sheet to maintain the secrecy of the vote if the voter is issued a ballot sheet with a long stub without a secrecy envelope.

(c) If the ballot is a provisional ballot, the voter shall place the ballot sheet in the provisional ballot envelope and complete the information printed on the envelope.

(3) (a) If a ballot sheet other than a punch card is used, the voter shall mark the ballot sheet according to the instructions provided on the voting device or ballot sheet.

(b) The voter shall record a write-in vote by:

(i) marking the position opposite the area for entering a write-in candidate; and

(ii) entering the name of the valid write-in candidate for whom the voter wishes to vote for by means of:

(A) writing;

(B) a label; or

(C) entering the name using the voting device.

(c) If the ballot is a provisional ballot, the voter shall place the ballot sheet in the provisional ballot envelope and complete the information printed on the envelope.

(4) (a) If an electronic ballot is used, the voter shall:

(i) insert the ballot access card into the voting device; and

(ii) make the selections according to the instructions provided on the device.

(b) The voter shall record a write-in vote by:

(i) marking the appropriate position opposite the area for entering a write-in candidate;

and

(ii) using the voting device to enter the name of the valid write-in candidate for whom the voter wishes to vote.

(5) After ~~[preparation of the]~~ a voter has prepared the voter's ballot:

(a) if the ballot is a paper ballot or punch card ballot ~~[is used]~~:

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(i) the voter shall:

(A) leave the voting booth; and

(B) ~~[announce his]~~ provide the voter's name to the poll worker in charge of the ballot box;

(ii) the poll worker in charge of the ballot box shall:

(A) clearly and audibly ~~[announce]~~ provide the name of the voter and the number on the stub of the voter's ballot;

(B) if the ballot is a paper ballot that can be read by an optical scanning device, check the ballot in accordance with Subsection (10);

~~[(B)] (C)~~ if the stub number on the ballot corresponds with the number previously recorded in the official register, and bears the initials of the poll worker, remove the stub from the ballot; and

~~[(C)] (D)~~ return the ballot to the voter;

(iii) the voter shall, in full view of the poll workers, cast ~~[his]~~ the voter's vote by depositing the ballot in the ballot box; and

(iv) if the stub has been detached from the ballot:

(A) the poll worker may not accept the ballot; and

(B) the poll worker shall:

(I) treat the ballot as a spoiled ballot;

(II) provide the voter with a new ballot; and

(III) dispose of the spoiled ballot as provided in Section 20A-3-107;

(b) if a ballot sheet other than a punch card is used:

(i) the voter shall:

(A) leave the voting booth; and

(B) announce ~~[his]~~ the voter's name to the poll worker in charge of the ballot box;

(ii) the poll worker in charge of the ballot box shall:

(A) clearly and audibly announce the name of the voter and the number on the stub of the voter's ballot; and

(B) if the stub number on the ballot corresponds with the number previously recorded in the official register, and bears the initials of the poll worker, return the ballot to the voter; and

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(iii) the voter shall, in full view of the poll workers, cast [~~his~~] the voter's vote by depositing the ballot in the ballot box; and

(c) if an electronic ballot is used, the voter shall:

(i) cast the voter's ballot;

(ii) remove the ballot access card from the voting device; and

(iii) return the ballot access card to a designated poll worker.

(6) A voter voting a paper ballot in a regular primary election shall, after marking the ballot:

(a) (i) if the ballot is designed so that the names of all candidates for all political parties are on the same ballot, detach the part of the paper ballot containing the names of the candidates of the party [~~he~~] the voter has voted from the remainder of the paper ballot;

(ii) fold that portion of the paper ballot so that its face is concealed; and

(iii) deposit it in the ballot box; and

(b) (i) fold the remainder of the paper ballot, containing the names of the candidates of the parties that the elector did not vote; and

(ii) deposit it in a separate ballot box that is marked and designated as a blank ballot box.

(7) (a) Each voter shall mark and cast or deposit the ballot without delay and shall leave the voting area after voting.

(b) A voter may not:

(i) occupy a voting booth occupied by another, except as provided in Section 20A-3-108;

(ii) remain within the voting area more than 10 minutes; or

(iii) occupy a voting booth for more than five minutes if all booths are in use and other voters are waiting to occupy them.

(8) If the official register shows any voter as having voted, that voter may not reenter the voting area during that election unless that voter is an election official or watcher.

(9) The poll workers may not allow more than four voters more than the number of voting booths into the voting area at one time unless those excess voters are:

(a) election officials;

(b) watchers; or

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(c) assisting voters with a disability.

(10) (a) If a voter votes using a paper ballot described in Subsection (5)(a)(ii)(B), the poll worker in charge of the ballot box shall ensure that the ballot is readable by an optical scanning device by directing the voter to feed the ballot through an optical scanning device that checks the ballot for inaccurate or erroneous marks that would prevent a vote on the ballot from being counted.

(b) An optical scanning device used to check a ballot under Subsection (10)(a) may not:

(i) record a vote on the ballot; or

(ii) reject a ballot because a voter did not mark a vote.

(c) A poll worker described in Subsection (10)(a):

(i) may assist a voter in feeding the voter's ballot through the optical scanning device;

and

(ii) may not examine a voter's ballot, regardless of the outcome of the check performed under Subsection (10)(a).

(d) If a check performed under Subsection (10)(a) shows that a vote on a ballot cannot be read by the optical scanning device because of an inaccurate or erroneous mark on the ballot, the poll worker shall:

(i) explain to the voter that a vote on the voter's ballot could not be read because of an inaccurate or erroneous mark on the ballot;

(ii) explain the manner in which a ballot must be marked for the optical scanning device to read a vote; and

(iii) (A) allow the voter to return to a voting booth to correct the ballot; or

(B) if the voter desires, issue the voter a new ballot.

(e) If the poll worker issues a new ballot under Subsection (10)(d)(iii)(B), the poll worker shall:

(i) treat the original ballot as a spoiled ballot; and

(ii) dispose of the spoiled ballot as provided in Section 20A-3-107.

Section 2. Section **20A-5-402.5** is amended to read:

20A-5-402.5. Certification of voting equipment.

(1) As used in this section, "voting equipment" means the following equipment used

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for an election:

- (a) automatic tabulating equipment;
- (b) an electronic voting system;
- (c) a voting device; or
- (d) a voting machine.

(2) For the voting equipment used in the jurisdiction over which an election officer has authority, the election officer shall

the election officer is certified by the Election Assistance Commission; and

(a) before each election, use logic and accuracy tests to ensure that the voting equipment performs the voting equipment's functions accurately;

(b) develop and implement a procedure to protect the physical security of the voting equipment; and

~~(b)~~ (c) ensure that the voting equipment is certified by the lieutenant governor under Subsection (3) as having met the requirements of this section.

(3) (a) The lieutenant governor shall ensure that all voting equipment used in the state is independently tested using security testing protocols and standards that:

(i) are generally accepted in the industry at the time the lieutenant governor reviews the voting equipment for certification; and

(ii) meet the requirements of Subsection (3)(b).

(b) The testing protocols and standards described in Subsection (3)(a) shall require that a voting system:

(i) is accurate and reliable;

(ii) possess established and maintained access controls;

(iii) has not been fraudulently manipulated or tampered with;

(iv) is able to identify fraudulent or erroneous changes to the voting equipment; and

(v) protects the secrecy of a voter's ballot.

(c) The lieutenant governor may comply with the requirements of Subsection (3)(a) by certifying voting equipment that has been certified by:

(i) the United States Election Assistance Commission; or

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(ii) a laboratory that has been accredited by the United States Election Assistance Commission to test voting equipment.

Section 3. Section **20A-5-402.7** is amended to read:

20A-5-402.7. Voting Equipment Selection Committee.

(1) As used in this section, "new voting equipment system" means voting equipment that is operated in a materially different way or that functions in a materially different way than the equipment being replaced.

(2) Before selecting or purchasing a new voting equipment system after January 1, 2007, the lieutenant governor shall:

- (a) appoint a Voting Equipment Selection Committee; and
- (b) ensure that the committee includes persons having experience in:
 - (i) election procedures and administration;
 - (ii) computer technology;
 - (iii) data security;
 - (iv) auditing; and
 - (v) access for persons with disabilities.

(3) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

- (a) Section 63A-3-106;
- (b) Section 63A-3-107; and
- (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and

63A-3-107.

(4) The lieutenant governor shall select a chair from the committee membership.

(5) The lieutenant governor may fill any vacancies that occur on the committee.

(6) The lieutenant governor's office shall provide staffing for the committee.

(7) The Voting Equipment Selection Committee shall:

- (a) evaluate new voting equipment systems proposed for purchase by the state; and
- (b) provide information and recommendations to assist the lieutenant governor with the

purchase of new voting equipment systems.

(8) (a) The Voting Equipment Selection Committee may establish requirements for new voting equipment systems purchased under Section 20A-5-402.9 through the Voting

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Equipment Grant Program.

(b) A requirement established under Subsection (8)(a) is not binding unless the recommendation:

(i) is consistent with the requirements described in Section 20A-5-402.9 for the Voting Equipment Grant Program; ~~and~~

(ii) specifically states that the recommendation is for voting equipment purchased through the Voting Equipment Grant Program ~~}; and};~~

~~{ (iii) is adopted by the Voting Equipment Selection Committee before December 1, 2016.~~

~~†~~ ~~[(8)]~~ (9) The lieutenant governor may designate individuals, including committee members, to inspect and review proprietary software as part of an evaluation of new voting equipment systems under consideration for purchase.

~~[(9)]~~ (10) Before making any selection or purchase, the lieutenant governor shall provide for a period of public review and comment on new voting equipment systems under consideration for purchase by the state.

Section 4. Section **20A-5-402.9** is enacted to read:

20A-5-402.9. Voting Equipment Grant Program -- Qualifications for receipt -- Matching funds -- Acceptable uses.

(1) As used in this section:

(a) "New voting equipment system" means the same as that term is defined in Section 20A-5-402.7.

(b) "Program" means the Voting Equipment Grant Program created in this section.

(c) "Proportional reimbursement rate" means the dollar amount equal to the product of:

(i) the total amount of funds appropriated by the Legislature to the program for fiscal year 2017; and

(ii) the quotient of:

(A) the total number of registered voters in a county; and

(B) the total number of registered voters in the state.

(2) (a) There is created the Voting Equipment Grant Program as a grant program to assist counties in purchasing new voting equipment systems.

(b) The lieutenant governor shall administer the program using funds appropriated by

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the Legislature for the purpose of administering the program.

(3) (a) After January 1, 2017, a county may submit a proposal to the Office of the Lieutenant Governor to participate in and receive funds from the program.

(b) A proposal described in Subsection (3)(a) shall:

(i) describe the current condition of voting equipment systems used by the county;

(ii) describe the county's need for new voting equipment systems;

(iii) describe how the county plans to comply with the requirements of Subsection (4), including:

(A) a description of how the county plans to provide the matching funds described in Subsection (4)(b) if the proposal is accepted; and

(B) a schedule by which the requirements will be met; and

(iv) contain a detailed estimate of the gross cost of procuring new voting equipment systems.

(4) A county that receives funds through a program grant:

(a) shall use the funds to purchase new voting equipment systems that:

(i) meet the requirements of Section 20A-5-402.5;

(ii) use a paper ballot that may be read by an optical scanning device ~~that is:~~

~~(A) not exclusively produced for use in elections;~~

~~(B) widely available for purchase; and~~

~~(C) supported or operated by widely available computer equipment}; and~~

(~~five~~iii) comply with any additional binding requirement made under Subsection 20A-5-402.7(8) by a Voting Equipment Selection Committee;

(b) shall, for the purpose of purchasing new voting equipment systems, appropriate funds equal to or greater than the difference of:

(i) the amount described in Subsection (3)(b)(iv) in the proposal that the lieutenant governor accepts under Subsection (~~five~~6)(b); and

(ii) the amount the lieutenant governor is required to disburse to the county under Subsection (~~six~~7)(a);

(c) may not use funds disbursed under Subsection (~~five~~6)(b)(i)(D) or appropriated under Subsection (4)(b) for a purpose or in a manner that is not authorized by this section; ~~and~~

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(d) except as ~~is necessary to accommodate a person with a disability in accordance with the requirements described~~; ~~provided~~ in Subsection ~~{20A-3-302}{(6)(b); 20A-3-603(1)(c), 20A-5-303(8), or 20A-5-403(2)(b)(iii)}~~5, may not, after using new voting equipment systems in an election that were purchased under this section, use a voting equipment system that does not meet the requirements described in Subsection (4)(a); ~~and~~

(e) shall purchase new voting equipment systems described under Subsection (4)(a) that provide the best value to the county with consideration for the new voting equipment system's:

(i) cost of maintenance;

(ii) estimated operational lifetime; and

(iii) cost of replacement.

(5) A county that receives funds through the program may use a voting equipment system that does not comply with the requirements described in Subsection (4)(a) if:

(a) using the voting equipment system is necessary to accommodate a person with a disability in accordance with the requirements described in Subsection 20A-3-302(6)(b), 20A-3-603(1)(c), 20A-5-303(8), or 20A-5-403(2)(b)(iii); or

(b) the county purchases the voting equipment system before the county expends funds in accordance with this chapter for the purchase of a new voting equipment system.

~~(5)6~~ Upon receipt of a proposal described in Subsection (3), the lieutenant governor shall;

(a) review the proposal to ensure that:

(i) the proposal complies with the requirements of Subsection (3); and

(ii) the cost estimate described in Subsection (3)(b)(iv) appears to be reasonable; and

(b) (i) if the proposal complies with the requirements of Subsection (3), the cost estimate appears to be reasonably accurate, and sufficient program funds are available:

(A) accept the proposal;

(B) notify the county clerk of the county that submitted the proposal that the proposal is accepted;

(C) notify the county clerk of the requirements of Subsection ~~(6)7~~; and

(D) disburse the funds described in Subsection ~~(6)7~~(a), in accordance with the requirements of Subsection ~~(6)7~~(b), to the county that submitted the proposal; or

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(ii) if the proposal does not comply with the requirements of Subsection (3) or the cost estimate does not appear to be reasonable:

(A) reject the proposal; and

(B) notify the county clerk of the county that submitted the proposal that the proposal is rejected, indicating the reason that the proposal is rejected.

(~~f6~~7) The lieutenant governor:

(a) shall disburse funds under Subsection (~~f5~~6)(b)(i)(D) equal to the lesser of:

(i) 50% of the amount described in Subsection (3)(b)(iv) in the proposal that the lieutenant governor accepts under Subsection (~~f5~~6)(b); or

(ii) the proportional reimbursement rate; and

(b) may not disburse funds under Subsection (~~f5~~6)(b)(i)(D):

(i) until the county appropriates the matching funds described in Subsection (4)(b); or

(ii) if the disbursement would cause the county's total receipt of funds from the program to exceed the proportional reimbursement rate.

Section 5. Section **63I-2-220** is amended to read:

63I-2-220. Repeal dates, Title 20A.

(1) Section 20A-3-704 is repealed January 1, 2016.

(2) Section 20A-5-410 is repealed January 1, 2016.

(3) (a) Subsection 20A-5-402.7(8) is repealed July 1, 2022.

(b) Section 20A-5-402.9 is repealed July 1, 2022.

[~~f3~~] (4) (a) Subsection 20A-7-101(1)(a)(i), the language that states "of the first class" and "; or" is repealed January 1, 2015.

(b) Subsection 20A-7-101(1)(a)(ii), the language that states "for a county not described in Subsection (1)(a)(i), a person designated as budget officer in Section 17-19-19" is repealed January 1, 2015.

[~~f4~~] (5) Section 20A-9-403.1 is repealed on January 1, 2015.

Section 6. **Appropriation.**

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2016, and ending June 30, 2017, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or amounts indicated. These sums of money are in

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addition to amounts previously appropriated for fiscal year 2017.

To Governor's Office

From General Fund, One-Time: \$2,500,000

Schedule of Programs:

Lieutenant Governor's Office \$2,500,000

The Legislature intends that:

(1) the Office of the Lieutenant Governor expend appropriations provided under this item to implement the Voting Equipment Grant Program created under Section 20A-5-402.9;
and

(2) under Section 63J-1-603, appropriations provided by this item not lapse at the close of fiscal year 2017.

Section 7. Effective date.

This bill takes effect on May 10, 2016, except that the amendments to Section 20A-3-105 in this bill take effect on January 1, 2018.

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Legislative Review Note

Office of Legislative Research and General Counsel†