

HB0012S01 compared with HB0012

~~{deleted text}~~ shows text that was in HB0012 but was deleted in HB0012S01.

Inserted text shows text that was not in HB0012 but was inserted into HB0012S01.

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Senator Margaret Dayton proposes the following substitute bill:

DISPOSITION OF BALLOTS AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Steve Eliason

Senate Sponsor: ~~{~~ Margaret Dayton }

LONG TITLE

~~{Committee Note:~~

~~—The Government Operations Interim Committee recommended this bill.~~

~~}General Description:~~

This bill amends provisions of the Election Code relating to a rejected absentee ballot.

Highlighted Provisions:

This bill:

- ▶ amends provisions relating to absentee ballot envelopes; and
- ▶ modifies the duties of an election officer in relation to notification of, and an opportunity to correct, a rejected absentee ballot.

Money Appropriated in this Bill:

None

Other Special Clauses:

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None

Utah Code Sections Affected:

AMENDS:

[20A-3-302, as last amended by Laws of Utah 2015, Chapter 173](#)

20A-3-305, as last amended by Laws of Utah 2016, Chapter 24

20A-3-308, as last amended by Laws of Utah 2012, Chapter 309

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

[Section 1. Section 20A-3-302 is amended to read:](#)

20A-3-302. Conducting entire election by absentee ballot.

(1) Notwithstanding Section 17B-1-306, an election officer may administer an election entirely by absentee ballot.

(2) If the election officer decides to administer an election entirely by absentee ballot, the election officer shall mail to each registered voter within that voting precinct:

(a) an absentee ballot;

(b) for an election administered by a county clerk, information regarding the location and hours of operation of any election day voting center at which the voter may vote;

(c) a courtesy reply mail envelope;

(d) instructions for returning the ballot that include an express notice about any relevant deadlines that the voter must meet in order for the voter's vote to be counted; and

(e) for an election administered by an election officer other than a county clerk, if the election officer does not operate a polling location or an election day voting center, a warning, on a separate page of colored paper in bold face print, indicating that if the voter fails to follow the instructions included with the absentee ballot, the voter will be unable to vote in that election because there will be no polling place in the voting precinct on the day of the election.

(3) A voter who votes by absentee ballot under this section is not required to apply for an absentee ballot as required by this part.

(4) An election officer who administers an election entirely by absentee ballot shall:

(a) (i) obtain, in person, the signatures of each voter within that voting precinct before the election; or

(ii) obtain the signature of each voter within the voting precinct from the county clerk;

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and

(b) maintain the signatures on file in the election officer's office.

(5) (a) Upon receiving the returned absentee ballots, the election officer shall compare the signature on each absentee ballot with the voter's signature that is maintained on file and verify that the signatures are the same.

(b) If the election officer questions the authenticity of the signature on the absentee ballot, the election officer shall immediately contact the voter to verify the signature.

(c) If the election ~~official~~ officer determines that the signature on the absentee ballot does not match the voter's signature that is maintained on file, the election officer shall:

(i) unless the absentee ballot application deadline described in Section 20A-3-304 has passed, immediately send another absentee ballot and other voting materials as required by this section to the voter; and

(ii) ~~disqualify~~ reject the initial absentee ballot.

(6) An election officer shall:

(a) notify a voter if the election officer rejects the voter's absentee ballot and specify the reason for the rejection; and

(b) give the notice described in Subsection (6)(a) to a voter no later than:

(i) if the election officer rejects the absentee ballot before election day:

(A) one business day after the day on which the election officer rejects the ballot, if the election officer gives the notice by email or text message; or

(B) two business days after the day on which the election officer rejects the ballot, if the election officer gives the notice by postal mail or phone;

(ii) seven days after election day if the election officer rejects the absentee ballot on election day; or

(iii) seven days after the canvass if the election officer rejects the absentee ballot after election day and before the end of the canvass.

~~(6)~~ (7) A county that administers an election entirely by absentee ballot:

(a) shall provide at least one election day voting center in accordance with Title 20A, Chapter 3, Part 7, Election Day Voting Center;

(b) shall ensure that an election day voting center operated by the county has at least one voting device that is accessible, in accordance with the Help America Vote Act of 2002,

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Pub. L. No. 107-252, for individuals with disabilities; and

(c) is not required to pay return postage for an absentee ballot.

Section ~~11~~2. Section **20A-3-305** is amended to read:

20A-3-305. Mailing of ballot to voter -- Enclose self-addressed envelope --

Affidavit.

(1) (a) Upon timely receipt of an absentee voter application properly filled out and signed less than 30 days before the election, the election officer shall either:

(i) give the applicant an official absentee ballot and envelope to vote in the office; or

(ii) mail an official absentee ballot, postage paid, to the absentee voter and enclose an envelope printed as required in Subsection (2).

(b) No later than 21 days before election day, the election officer shall mail an official absentee ballot, postage paid, to all absentee voters, other than to a uniformed-service voter or an overseas voter, who have submitted a properly filled out and signed absentee voter application before the day on which the ballots are mailed and enclose an envelope printed as required by Subsection (2).

(2) The election officer shall ensure that:

(a) the name, official title, and post office address of the election officer is printed on the front of the envelope; ~~[and]~~

(b) the return envelope includes a space where a voter may write an email address and phone number by which the election officer may contact the voter if the voter's ballot is rejected; and

~~(b)~~ (c) a printed affidavit in substantially the following form is printed on the back of the envelope:

"County of _____ State of _____

I, _____, solemnly swear that: I am a qualified resident voter of the _____ voting precinct in _____ County, Utah and that I am entitled to vote in that voting precinct at the next election.

I am not a convicted felon currently incarcerated for commission of a felony.

Signature of Absentee Voter"

(3) If the election officer determines that the absentee voter is required to show valid voter identification, the election officer shall:

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- (a) issue the voter a provisional ballot in accordance with Section 20A-3-105.5;
- (b) instruct the voter to include a copy of the voter's valid voter identification with the return ballot;
- (c) provide the voter clear instructions on how to vote a provisional ballot; and
- (d) comply with the requirements of Subsection (2).

Section ~~2~~3. Section **20A-3-308** is amended to read:

20A-3-308. Absentee ballots in the custody of poll workers -- Disposition --

Notice.

(1) (a) Voting precinct poll workers shall open envelopes containing absentee ballots that are in their custody on election day at the polling places during the time the polls are open as provided in this Subsection (1).

(b) The poll workers shall:

- (i) first, open the outer envelope only; and
- (ii) compare the signature of the voter on the application with the signature on the affidavit.

(2) (a) The poll workers shall carefully open and remove the absentee voter envelope so as not to destroy the affidavit on the envelope if they find that:

- (i) the affidavit is sufficient;
- (ii) the signatures correspond; and
- (iii) the applicant is registered to vote in that voting precinct and has not voted in that election.

(b) If, after opening the absentee voter envelope, the poll worker finds that a provisional ballot envelope is enclosed, the poll worker shall:

- (i) record, in the official register, whether:
 - (A) the voter included valid voter identification; or
 - (B) a covered voter, as defined in Section 20A-16-102, did not provide valid voter identification as permitted by Public Law 107-252, the Help America Vote Act of 2002;
- (ii) if any type of identification was included, record the type of identification provided by the voter in the appropriate space in the official register;
- (iii) record the provisional ballot number on the official register; and
- (iv) place the provisional ballot envelope with the other provisional ballot envelopes to

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be transmitted to the county clerk.

(c) If the absentee ballot is not a provisional ballot, the poll workers shall:

(i) remove the absentee ballot from the envelope without unfolding it or permitting it to be opened or examined;

(ii) initial the stub in the same manner as for other ballots;

(iii) remove the stub from the ballot;

(iv) deposit the ballot in the ballot box; and

(v) mark the official register and pollbook to show that the voter has voted.

(3) If the poll workers determine that the affidavit is insufficient, or that the signatures do not correspond, or that the applicant is not a registered voter in the voting precinct, they shall:

(a) disallow the vote; and

(b) without opening the absentee voter envelope, mark across the face of the envelope:

(i) "Rejected as defective"; or

(ii) "Rejected as not a registered voter."

(4) The poll workers shall deposit the absentee voter envelope, when the absentee ballot is voted, and the absentee voter envelope with its contents unopened when the absent vote is rejected, in the ballot box containing the ballots.

(5) ~~(a)~~ An election officer shall:

(a) notify a voter if a poll worker rejects the voter's absentee ballot and specify the reason for the rejection~~[-];~~ and

(b) ~~[An election officer shall]~~ give the notice described in Subsection (5)(a) to a voter no later than ~~[seven days after]~~:

(i) if the poll worker rejects the absentee ballot before election day;

(A) one business day after the day on which the poll worker rejects the ballot, if the election officer gives the notice by email or text message; or

(B) two business days after the day on which the poll worker rejects the ballot, if the election officer gives the notice by postal mail or phone;

~~(+)~~ (ii) seven days after election day if the [election officer { }] receives the [poll worker rejects the absentee ballot [before or] on election day; [and] or

~~(+)~~ (iii) seven days after the canvass if the [election officer { }] receives the [poll

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worker rejects the absentee ballot after election day and before the end of the canvass~~††. ††~~
and~~†~~

~~{ ——— (c) before the polls close, permit a voter whose absentee ballot is rejected to correct the voter's absentee ballot.~~

† (6) The election officer shall retain and preserve the absentee voter envelopes in the manner provided by law for the retention and preservation of official ballots voted at that election.

†

Legislative Review Note

Office of Legislative Research and General Counsel~~†~~