



File 411, Election Information Amendments

Prepared for the Government Operations Committee | November 20, 2024

Background

At its May meeting, the Government Operations Interim Committee opened a bill file to address the availability of election records for the purpose of researching election issues and processes.

Under existing Utah law, election records are sealed for 22 months after an election and may only be accessed for an audit or by the courts for a contested election. After the 22-month period, certain records must be destroyed (ballots and other election returns) and some may be retained (materials used in the programming of the automatic tabulating equipment).

“Election Information Amendments” would require a county clerk to create an electronic copy of certain election records and authorize certain entities to examine the copies for election-related research. While the draft legislation makes other changes to election records, this document focuses exclusively on changes to election records access and examination.

Election Material – Access and Examination

- ❖ Defines “election material” to mean:
 - Return envelopes
 - Verification documentation
 - Chain of custody documentation
 - Log of replicated ballots
 - Ballots
 - Election returns¹
 - Election database
 - Cast vote record
 - Materials used in the programming of automatic tabulating equipment
- ❖ Defines “government entity” to mean the:
 - lieutenant governor
 - attorney general
 - legislative auditor general
 - state auditor
- ❖ For elections administered by a county clerk, requires the county clerk to:
 - Make an electronic copy of all election material
 - Store the electronic copy in a secure place
 - Ensure the electronic copy is not altered/changed/destroyed
 - Preserve the electronic copy indefinitely
- ❖ Authorizes a county clerk to access and examine a copy of election material for either of the following purposes:
 - Respond to an interim or standing committee inquiry regarding an election
 - If approved by the county legislative body, conduct research on an election issue or process
- ❖ Authorizes a county legislative body and a government entity to access and examine a copy of election material to conduct research on an election issue or process.
 - A county clerk can approve or deny a county legislative body’s request to examine election material
 - A government entity may request to examine election material from more than one county
- ❖ Creates a process to obtain access to and examine the copy of election material, as shown on page 2 in Figures 1-A through C. The process varies slightly depending on which entity seeks access to the material.

¹ Utah Code § 20A-1-102 defines “election returns” to include the pollbook, the military and overseas absentee voter registration and voting certificates, one of the tally

sheets, any unprocessed ballots, all counted ballots, all excess ballots, all unused ballots, all spoiled ballots, the ballot disposition form, and the total votes cast form.



Figure 1-A: Process for a County Clerk to Access and Examine Election Material

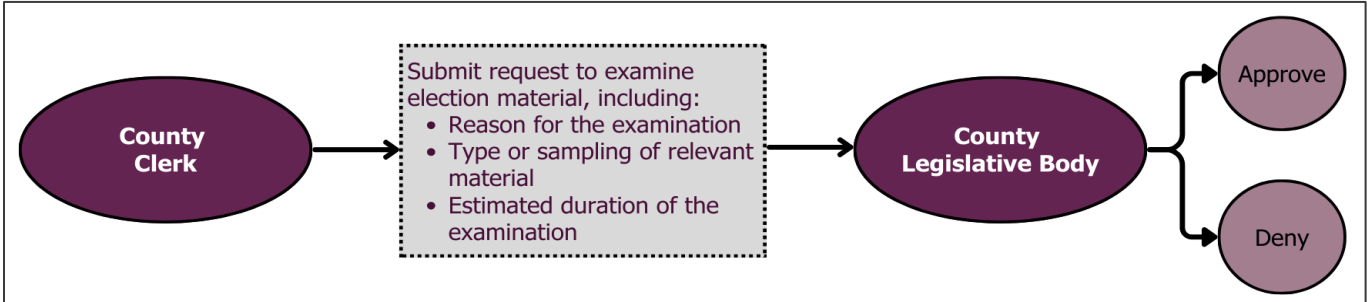


Figure 1-B: Process for a County Legislative Body to Access and Examine Election Material

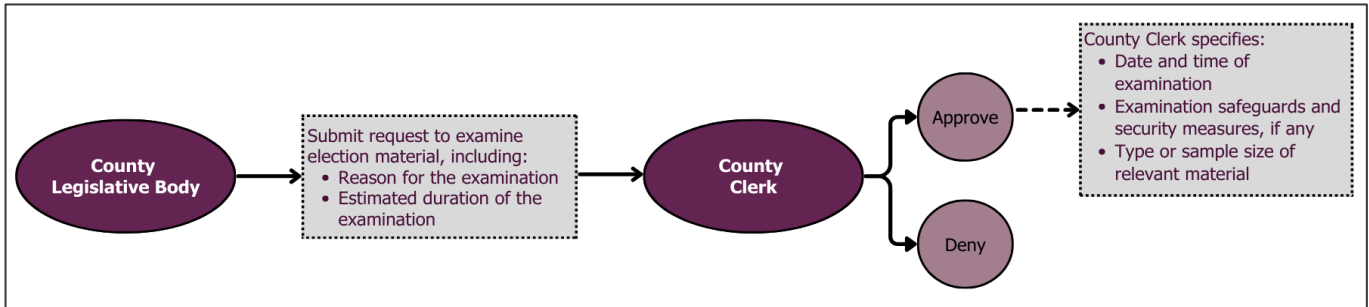


Figure 1-C: Process for a Government Entity to Access and Examine Election Material

