

SPECIAL DISTRICT ELECTIONS

1998 GENERAL SESSION

STATE OF UTAH

Sponsor: John E. Swallow

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AN ACT RELATING TO SPECIAL DISTRICTS AND ELECTION CODE; MODIFYING NOTICE REQUIREMENTS FOR SPECIAL DISTRICT OFFICES TO BE FILLED AT AN ELECTION; CHANGING THE DATE FOR SPECIAL DISTRICT ELECTIONS FROM THE MUNICIPAL ELECTION DATE TO THE REGULAR GENERAL ELECTION DATE; REQUIRING EACH SPECIAL DISTRICT TO REIMBURSE THE COUNTY FOR THE COSTS OF AN ELECTION; MAKING TECHNICAL CORRECTIONS; AND PROVIDING AN EFFECTIVE DATE.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

17A-1-305, as last amended by Chapter 130, Laws of Utah 1997

20A-1-201, as last amended by Chapter 21, Laws of Utah 1994

20A-1-202, as last amended by Chapter 21, Laws of Utah 1994

20A-4-301, as last amended by Chapter 2, Laws of Utah 1994

20A-4-304, as last amended by Chapter 21, Laws of Utah 1994

20A-5-101, as last amended by Chapter 24, Laws of Utah 1997

20A-5-401, as last amended by Chapter 3, Laws of Utah 1996, Second Special Session

REPEALS AND REENACTS:

17A-1-304, as enacted by Chapter 273, Laws of Utah 1991

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

Section 1. Section **17A-1-304** is repealed and reenacted to read:

17A-1-304. Notice of offices to be filled.

On or before February 1 of each regular general election year, the board of each special district shall prepare and transmit to the clerk of each county in which any part of the district is located a written notice that:

- (1) designates the offices to be filled at that year's regular general election; and
- (2) identifies the dates for filing a declaration of candidacy for those offices.

Section 2. Section **17A-1-305** is amended to read:

17A-1-305. Special district board -- Election procedures.

(1) ~~[Any]~~ Except as provided in Subsection (12), each elected board member shall be selected as provided in this section.

(2) ~~[(a) The]~~ Each election ~~[for members]~~ of ~~[the]~~ a special district board member shall be held ~~[on the same day as]~~ in conjunction with the ~~[municipal]~~ regular general election at polling places designated by the clerk of each county in which the special district is located.

~~[(b) (i) The special district board shall fix the polling places for the election.]~~

~~[(ii) If appropriate, the special district board may consolidate voting districts or ballots with the municipal governing body.]~~

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

(i) each elective position of the special district to be filled at the next 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 special district at least ten days before the first day for filing a declaration of candidacy; or

(ii) published in a newspaper of general circulation within the special district at least three but no more than ten days before the first day for filing a declaration of candidacy.

~~[(3)]~~ (4) (a) To become a candidate for an elective special district board position, the prospective candidate shall file a declaration of candidacy in person with the special district, during office hours and not later than 5 p.m. between July 15 and August 15 of any ~~[odd]~~ even numbered year.

(b) When August 15 is a Saturday or Sunday, the filing time shall be extended until 5 p.m.

on the following Monday.

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

- (i) read to the prospective candidate the constitutional and statutory qualification requirements for the office that the candidate is seeking;
- (ii) require the candidate to state whether or not the candidate meets those requirements;
- (iii) if the prospective candidate does not meet the qualification requirements for the office, the filing officer may not accept the declaration of candidacy; and
- (iv) if it appears that the prospective candidate meets the requirements of candidacy, the filing officer shall accept the declaration of candidacy.

(d) (i) 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 am a registered voter and qualified elector of the special district; that I am a candidate for the office of _____(stating the term) to be voted upon at the November [municipal] regular general election to be held on Tuesday, the _____ day of November, [19]____, 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 _____, [19] ____.

(Signed) _____

(Clerk or Notary Public)"

(ii) 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.

~~[(4)]~~ (5) There shall be no primary election.

~~[(5) (a) The special district board shall:]~~

~~[(i) provide election supplies; and]~~

~~[(ii) appoint election judges before election day.]~~

~~[(b) At least one day before the election, and without expense to the special district, the county clerk shall provide the special district clerk with a certified list of registered voters who:]~~

~~[(i) reside in the special district; and]~~

~~[(ii) are entitled to vote.]~~

(6) (a) The special district [board] clerk shall [prescribe the form of ballot for the special district board election] certify the candidate names to the clerk of each county in which the special district is located no later than August 20 of the regular general election year.

(b) ~~[The ballot shall be a nonpartisan format]~~ The clerk of each county in which the special district is located shall list the name of each candidate for special district office in the nonpartisan section of the regular general election ballot as provided in Title 20A, Chapter 6, Part 3, Regular General Election Ballots.

(7) (a) Only qualified electors of the special district who are registered to vote and who are entitled to vote may vote.

(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 special district board members is governed by Title 20A, Election Code.

(9) (a) A person elected to serve on a special district board shall serve a four-year term, beginning on the January 1 after the person's election.

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

(10) The term of a person serving on a special district board as of ~~[April 29, 1991]~~ May 1, 2000, whose election falls on an ~~[even-numbered]~~ odd-numbered year is extended one year so that the person's election will be on the next November election day in an ~~[odd-numbered]~~ even-numbered year.

(11) (a) If the application of Subsection (10) causes a disproportionate number of elected and appointed terms to expire at the same time, or if for any other reason a disproportionate number of positions expire at the same time, a number of elected terms shall be extended to January 1 following the next ~~[municipal]~~ regular general election, or, in the case of appointed terms, a number of

appointed terms shall be extended to January 1 following the normal expiration of appointed terms, to equalize, to the extent possible, the number of board positions expiring at the same time.

(b) The board member whose term is to be extended shall be determined by lot.

(c) After this apportionment has taken place, all board terms shall be four years.

(12) Each special district shall reimburse the county holding an election under this section for the costs of the election attributable to that special district.

(13) This section does not apply to a county improvement district under Chapter 2, Part 3, County Improvement Districts for Water, Sewerage, Flood Control, Electric and Gas, that provides electric or gas service or to an irrigation district under Chapter 2, Part 7, Irrigation Districts.

Section 3. 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;

(viii) local school board members; [and]

(ix) any elected judicial officers; and

(x) special district 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.

Section 4. Section **20A-1-202** is amended to read:

20A-1-202. Date and purpose of local elections.

(1) A municipal general election shall be held in municipalities [~~and special districts~~] 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) choose persons to serve as municipal [~~and special district~~] officers; 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 5. Section **20A-4-301** is amended to read:

20A-4-301. Board of canvassers.

(1) (a) Each county legislative body is the board of county canvassers for the county and for each special district whose election is conducted by the county.

(b) The board of county canvassers shall meet to canvass the returns at the usual place of meeting of the county legislative body, at noon on the Monday after the election.

(c) If one or more of the county legislative body fails to attend the meeting of the board of county canvassers, the remaining members shall replace the absent member by appointing in the order named:

(i) the county treasurer;

(ii) the county assessor; or

(iii) the county sheriff.

(d) The board of county canvassers shall always consist of three acting members.

(e) The county clerk is the clerk of the board of county canvassers.

(2) (a) The mayor and the municipal legislative body are the board of municipal canvassers for the municipality.

(b) The board of municipal canvassers shall meet to canvass the returns at the usual place of meeting of the municipal legislative body no later than seven days after the election.

~~[(3) (a) The governing board of a special district is the board of canvassers for that special district.]~~

~~[(b) The special district board of canvassers shall meet to canvass the returns at the usual place of meeting of the special district governing board no later than seven days after the election.]~~

~~[(4)]~~ (3) (a) This part does not apply to bond elections.

(b) Persons responsible for canvassing bond elections shall comply with the canvassing procedures and requirements of Title 11, Chapter 14, Utah Municipal Bond Act.

Section 6. Section **20A-4-304** is amended to read:

20A-4-304. Declaration of results -- Canvassers' report.

(1) Each board of canvassers shall:

(a) declare "elected" those persons who:

(i) had the highest number of votes; and

(ii) sought election to an office completely within the board's jurisdiction;

(b) declare:

(i) "approved" those ballot propositions that:

(A) had more "yes" votes than "no" votes; and

(B) were submitted only to the voters within the board's jurisdiction;

(ii) "rejected" those ballot propositions that:

(A) had more "no" votes than "yes" votes or an equal number of "no" votes and "yes" votes;

and

(B) were submitted only to the voters within the board's jurisdiction; [and]

(c) certify the vote totals for persons and for and against ballot propositions that were submitted to voters within and beyond the board's jurisdiction and transmit those vote totals to the

lieutenant governor; and

(d) if applicable, certify the results of each special district election to the special district clerk.

(2) (a) As soon as the result is declared, the election officer shall prepare a report of the result, which shall contain:

- (i) the total number of votes cast in the board's jurisdiction;
- (ii) the names of each candidate whose name appeared on the ballot;
- (iii) the title of each ballot proposition that appeared on the ballot;
- (iv) each office that appeared on the ballot;
- (v) from each voting precinct:
 - (A) the number of votes for each candidate; and
 - (B) the number of votes for and against each ballot proposition;
- (vi) the total number of votes given in the board's jurisdiction to each candidate, and for and against each ballot proposition; and

(vii) a statement certifying that the information contained in the report is accurate.

(b) The election officer and the board of canvassers shall:

- (i) review the report to ensure that it is correct; and
- (ii) sign the report.

(c) The election officer shall:

- (i) record or file the certified report in a book kept for that purpose;
- (ii) prepare and transmit a certificate of nomination or election under the officer's seal to each nominated or elected candidate;

(iii) publish a copy of the certified report in a newspaper with general circulation in the board's jurisdiction[~~; or if no newspaper is published within the board's jurisdiction;~~] and post it in a conspicuous place within the jurisdiction; and

(iv) file a copy of the certified report with the lieutenant governor.

(3) When there has been a regular general or a statewide special election for statewide officers, for officers that appear on the ballot in more than one county, or for a statewide or two or

more county ballot proposition, each board of canvassers shall:

(a) prepare a separate report detailing the number of votes for each candidate and the number of votes for and against each ballot proposition; and

(b) transmit it by registered mail to the lieutenant governor.

(4) In each county election, municipal election, school election, special district election, and local special election, the election officer shall transmit the reports to the lieutenant governor within 14 days of the canvass.

(5) In regular primary elections, the board shall transmit to the lieutenant governor:

(a) the county totals for multi-county races, to be telephoned or faxed to the lieutenant governor not later than the Tuesday after the primary election; and

(b) a complete tabulation showing voting totals for all primary races, precinct by precinct, to be mailed to the lieutenant governor on or before the second Friday following the primary election.

Section 7. 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; and

(c) 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 10, each county clerk shall:

~~[(a)]~~ ~~(i)~~ publish a ~~[list of the offices that will be voted on in that election in that county]~~ notice once in a newspaper published in that county; ~~[(or)]~~ and

~~[(b)]~~ ~~if no newspaper is published in that county:]~~

~~[(i)]~~ ~~(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

~~[(ii)]~~ ~~(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 special 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; and
- (d) the qualifications for persons to vote in the election.

(4) To provide the notice required by Subsection [~~(2)~~] (3), the election officer shall publish the notice at least two days before the election in a newspaper of general circulation common to the area or in which the election is being held.

Section 8. Section **20A-5-401** is amended to read:

20A-5-401. Official register and posting book -- Preparation -- Contents.

(1) (a) Before the registration days for each regular general or municipal general election, each county clerk shall prepare an official register and posting list of voters for each voting precinct that will participate in the election.

(b) The county clerk shall ensure that the official register and posting list are bound or loose leaf books prepared for the alphabetical entry of names and ruled in columns of suitable dimensions to provide for the following entries:

- (i) registered voter's name;
- (ii) party affiliation;
- (iii) grounds for challenge;
- (iv) name of person challenging a voter;
- (v) ballot numbers, primary, November, special;
- (vi) date of birth;
- (vii) place of birth;

- (viii) place of current residence;
- (ix) street address;
- (x) zip code; and
- (xi) space for the voter to sign his name for each election.

(2) (a) (i) For municipal, special district, and bond elections, the county clerk shall make an official register and posting list only for voting precincts affected by the municipal, special district, or bond election.

(ii) Each county clerk, with the assistance of the clerk of each affected special district, shall provide a detailed map or an indication on the registration list or other means to enable an election judge to determine the voters entitled to vote at an election of special district officers.

(b) Municipalities shall pay the costs of making the official register and posting list.

Section 9. Effective date.

This act takes effect on January 1, 2000.