

**ELECTION RESPONSIBILITIES**

1998 GENERAL SESSION

STATE OF UTAH

**Sponsor: L. Steven Poulton**

AN ACT RELATING TO ELECTIONS; REQUIRING COUNTY CLERKS AND MUNICIPAL CLERKS TO CONDUCT CERTAIN ELECTIONS; REQUIRING THOSE CLERKS TO ESTABLISH FEES FOR CONDUCTING ELECTIONS; REQUIRING THOSE CLERKS TO BILL CERTAIN OTHER POLITICAL SUBDIVISIONS FOR THE COST OF THEIR ELECTIONS; AND MAKING TECHNICAL CORRECTIONS.

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

AMENDS:

**20A-1-102**, as last amended by Chapter 183, Laws of Utah 1997

ENACTS:

**20A-5-400.5**, Utah Code Annotated 1953

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

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

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

As used in this title:

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

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

(3) "Ballot" means the cardboard, paper, or other material upon which a voter records his votes and includes ballot cards, paper ballots, and secrecy envelopes.

(4) "Ballot card" means a ballot that can be counted using automatic tabulating equipment.

(5) "Ballot label" means the cards, papers, booklet, pages, or other materials that contain the names of offices and candidates and statements of ballot propositions to be voted on and which are used in conjunction with ballot cards.

(6) "Ballot proposition" means constitutional amendments, initiatives, referenda, judicial

retention questions, opinion questions, and other questions submitted to the voters for their approval or rejection.

(7) "Board of canvassers" means the entities established by Sections 20A-4-301 and 20A-4-306 to canvass election returns.

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

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

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

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

(12) "Canvassing judge" means an election judge designated to assist in counting ballots at the canvass.

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

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

(15) "Counting judge" means a judge designated to count the ballots during election day.

(16) "Counting poll watcher" means a person selected as provided in Section 20A-3-201 to witness the counting of ballots.

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

(18) "County executive" means:

(a) the county commission in the traditional management arrangement established by Section 17-4-2 and Title 17, Chapter 5, County Commissioners and Legislative Bodies;

(b) the county executive in the county executive and chief administrative officer-council

optional form of management arrangement authorized by Section 17-35a-13;

(c) the county executive in the county executive-council optional form of management arrangement authorized by Section 17-35a-14;

(d) the county council in the council-manager optional form of management arrangement authorized by Section 17-35a-15; and

(e) the county council in the council-county administrative officer optional form of management arrangement authorized by Section 17-35a-15.5.

(19) "County legislative body" means:

(a) the county commission in the traditional management arrangement established by Section 17-4-2 and Title 17, Chapter 5;

(b) the county council in the county executive and chief administrative officer-council optional form of management arrangement authorized by Section 17-35a-13;

(c) the county council in the county executive-council optional form of management arrangement authorized by Section 17-35a-14;

(d) the county council in the council-manager optional form of management arrangement authorized by Section 17-35a-15; and

(e) the county council in the council-county administrative officer optional form of management arrangement authorized by Section 17-35a-15.5.

(20) "County officers" means those county officers that are required by law to be elected.

(21) "Election" means a regular general election, a municipal general election, a statewide special election, a local special election, a regular primary election, a municipal primary election, and a special district election.

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

(23) "Election judge" means each canvassing judge, counting judge, and receiving judge.

(24) "Election officer" means:

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

(b) the county clerk or clerks for all county ballots and for certain special district and school

district ballots as provided in Section 20A-5-400.5;

(c) the municipal clerk for all municipal ballots and for certain special district and school district ballots as provided in Section 20A-5-400.5; and

(d) the special district clerk or chief executive officer for all special district ballots that are not part of a statewide, county, or municipal ballot.

(25) "Election official" means any election officer, election judge, or satellite registrar.

(26) "Election returns" includes the pollbook, all affidavits of registration, the military and overseas absentee voter registration and voting certificates, one of the tally sheets, any unprocessed absentee ballots, all counted ballots, all excess ballots, all unused ballots, all spoiled ballots, the ballot disposition form, and the total votes cast form.

(27) "Electronic voting system" means a system in which a voting device is used in conjunction with ballots so that votes recorded by the voter are counted and tabulated by automatic tabulating equipment.

(28) "Inactive voter" means a registered voter who has been sent the notice required by Section 20A-2-306 and who has failed to respond to that notice.

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

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

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

(32) "Local election" means a regular municipal election, a local special election, a special district election, and a bond election.

(33) "Local political subdivision" means a county, a municipality, a special district, or a local school district.

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

(35) "Municipal executive" means:

(a) the city commission, city council, or town council in the traditional management

arrangement established by Title 10, Chapter 3, Part 1, Governing Body;

(b) the mayor in the council-mayor optional form of government defined in Section 10-3-1209; and

(c) the manager in the council-manager optional form of government defined in Section 10-3-1209.

(36) "Municipal general election" means the election held in municipalities and special districts on the first Tuesday after the first Monday in November of each odd-numbered year for the purposes established in Section 20A-1-202.

(37) "Municipal legislative body" means:

(a) the city commission, city council, or town council in the traditional management arrangement established by Title 10, Chapter 3, Part 1;

(b) the municipal council in the council-mayor optional form of government defined in Section 10-3-1209; and

(c) the municipal council in the council-manager optional form of government defined in Section 10-3-1209.

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

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

(40) "Official ballot" means the ballots distributed by the election officer to the election judges to be given to voters to record their votes.

(41) "Official endorsement" means:

(a) the information on the ballot that identifies:

(i) the ballot as an official ballot;

(ii) the date of the election; and

(iii) the facsimile signature of the election officer; and

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

(i) the election judge's initials; and

(ii) the ballot number.

(42) "Official register" means the book furnished election officials by the election officer that contains the information required by Section 20A-5-401.

(43) "Paper ballot" means a paper that contains:

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

(b) spaces for the voter to record his vote for each office and for or against each ballot proposition.

(44) "Political party" means an organization of registered voters that has qualified to participate in an election by meeting the requirements of Title 20A, Chapter 8, Political Party Formation and Procedures.

(45) "Polling place" means the building where residents of a voting precinct vote.

(46) "Position" means a square, circle, rectangle, or other geometric shape on a ballot in which the voter marks his choice.

(47) "Posting list" means a list of registered voters within a voting precinct.

(48) "Primary convention" means the political party conventions at which nominees for the regular primary election are selected.

(49) "Protective counter" means a separate counter, which cannot be reset, that is built into a voting machine and records the total number of movements of the operating lever.

(50) "Qualify" or "qualified" means to take the oath of office and begin performing the duties of the position for which the person was elected.

(51) "Receiving judge" means the election judge that checks the voter's name in the official register, provides the voter with a ballot, and removes the ballot stub from the ballot after the voter has voted.

(52) "Registration days" means the days designated in Section 20A-2-203 when a voter may register to vote with a satellite registrar.

(53) "Registration form" means a book voter registration form and a by-mail voter registration form.

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

(55) "Regular primary election" means the election on the fourth Tuesday of June of each even-numbered year, at which candidates of political parties and nonpolitical groups are voted for nomination.

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

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

(58) "Satellite registrar" means a person appointed under Section 20A-5-201 to register voters and perform other duties.

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

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

(61) "Special election" means an election held as authorized by Section 20A-1-204.

(62) "Special district" means those local government entities created under the authority of Title 17A.

(63) "Special district officers" means those special district officers that are required by law to be elected.

(64) "Spoiled ballot" means each ballot that:

- (a) is spoiled by the voter;
- (b) is unable to be voted because it was spoiled by the printer or the election judge; or
- (c) lacks the official endorsement.

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

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

(67) "Substitute ballots" means replacement ballots provided by an election officer to the election judges when the official ballots are lost or stolen.

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

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

(70) "Vacancy" means the absence of a person to serve in any position created by statute, whether that absence occurs because of death, disability, disqualification, resignation, or other cause.

(71) "Valid write-in candidate" means a candidate who has qualified as a write-in candidate by following the procedures and requirements of this title.

(72) "Voter" means a person who meets the requirements of election registration and is registered and is listed in the official register book.

(73) "Voting area" means the area within six feet of the voting booths, voting machines, and ballot box.

(74) "Voting booth" means the space or compartment within a polling place that is provided for the preparation of ballots and includes the voting machine enclosure or curtain.

(75) "Voting device" means:

(a) an apparatus in which ballot cards are used in connection with a punch device for piercing the ballots by the voter;

(b) a device for marking the ballots with ink or another substance; or

(c) any other method for recording votes on ballots so that the ballot may be tabulated by means of automatic tabulating equipment.

(76) "Voting machine" means a machine designed for the sole purpose of recording and tabulating votes cast by voters at an election.

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

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



(79) "Watcher" means a voting poll watcher, a counting poll watcher, and an inspecting poll watcher.

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

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

Section 2. Section **20A-5-400.5** is enacted to read:

**20A-5-400.5. County clerk and municipal clerk to conduct certain elections -- Billing.**

(1) When a school district holds a voted leeway election or a bond election, and when a special district holds a bond election, the county clerk, municipal clerk, or both the county clerk and municipal clerk shall conduct and administer those elections as provided in this section.

(2) (a) When a voted leeway or bond election is held on the regular general election date or regular primary election date, the county clerk shall conduct and administer that election.

(b) When a voted leeway or bond election is held on the municipal general election date or municipal primary election date, and the school district or special district calling the election is entirely within the boundaries of the unincorporated county, the county clerk shall conduct and administer that election.

(c) When a voted leeway or bond election is held on the municipal general election date or municipal primary election date, and the school district or special district calling the election is entirely within the boundaries of a municipality, the municipal clerk for that municipality shall conduct and administer that election.

(d) When a voted leeway or bond election is held on the municipal general election date or municipal primary election date, and the school district or special district calling the election extends beyond the boundaries of a single municipality:

(i) the municipal clerk shall conduct and administer the election for those portions of the school district or special district where the municipal general election or municipal primary election is being held; and

(ii) the county clerk shall conduct and administer the election for the unincorporated county and for those portions of any municipality where no municipal general election or municipal primary

election is being held.

(3) (a) In conducting elections under this section:

(i) the school district or special district shall provide and pay for election notices; and

(ii) the county clerk, the municipal clerk, or both shall determine polling locations, compile and prepare the ballots, count the ballots, and canvass the vote.

(b) The county clerk, the municipal clerk, or both shall:

(i) establish fees for conducting voted leeway and bond elections for school districts and special districts; and

(ii) bill each school district and special district for the cost of conducting the voted leeway or bond election.