

Senator L. Steven Poulton proposes to substitute the following bill:

ELECTION RESPONSIBILITIES

1998 GENERAL SESSION

STATE OF UTAH

Sponsor: L. Steven Poulton

AN ACT RELATING TO ELECTIONS; REQUIRING THE COUNTY CLERK TO CONDUCT ALL ELECTIONS; REQUIRING THE COUNTY CLERK TO ESTABLISH FEES FOR CONDUCTING ELECTIONS; REQUIRING THE COUNTY CLERK TO BILL 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.

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

4 (6) "Ballot proposition" means constitutional amendments, initiatives, referenda, judicial
5 retention questions, opinion questions, and other questions submitted to the voters for their
6 approval or rejection.

7 (7) "Board of canvassers" means the entities established by Sections 20A-4-301 and
8 20A-4-306 to canvass election returns.

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

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

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

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

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

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

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

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

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

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

29 (18) "County executive" means:

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

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

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

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

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

9 (19) "County legislative body" means:

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

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

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

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

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

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

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

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

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

27 (24) "Election officer" means:

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

29 (b) the county clerk or clerks for all county ballots and for certain special district and
30 school district ballots as provided in Section 20A-5-400.5;

31 (c) the municipal clerk for all municipal ballots and for certain special district and school

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

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

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

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

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

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

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

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

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

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

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

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

25 (35) "Municipal executive" means:

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

28 (b) the mayor in the council-mayor optional form of government defined in Section
29 10-3-1209; and

30 (c) the manager in the council-manager optional form of government defined in Section
31 10-3-1209.

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

4 (37) "Municipal legislative body" means:

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

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

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

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

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

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

17 (41) "Official endorsement" means:

18 (a) the information on the ballot that identifies:

19 (i) the ballot as an official ballot;

20 (ii) the date of the election; and

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

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

23 (i) the election judge's initials; and

24 (ii) the ballot number.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 (a) is spoiled by the voter;

13 (b) is unable to be voted because it was spoiled by the printer or the election judge; or

14 (c) lacks the official endorsement.

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

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

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

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

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

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

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

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

31 (73) "Voting area" means the area within six feet of the voting booths, voting machines,

1 and ballot box.

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

4 (75) "Voting device" means:

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

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

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

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

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

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

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

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

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

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

22 **20A-5-400.5. County clerk and municipal clerk to conduct certain elections -- Billing.**

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

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

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

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

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

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

11 (ii) the county clerk shall conduct and administer the election for the unincorporated
12 county and for those portions of any municipality where no municipal general election or
13 municipal primary election is being held.

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

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

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

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

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

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