

ELECTION AND DISCLOSURE LAWS TECHNICAL AMENDMENTS

1999 GENERAL SESSION

STATE OF UTAH

Sponsor: Loraine T. Pace

AN ACT RELATING TO THE ELECTION CODE; MODIFYING THE AFFIDAVIT FOR ABSENTEE BALLOT; CLARIFYING REQUIREMENTS FOR EVALUATING A VOTERS' BALLOT CHOICES; CLARIFYING DISCLOSURE REQUIREMENTS; AND MAKING TECHNICAL CORRECTIONS.

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

AMENDS:

20A-3-305, as last amended by Chapter 10, Laws of Utah 1996

20A-4-105, as last amended by Chapter 24, Laws of Utah 1997

20A-9-404, as last amended by Chapter 340, Laws of Utah 1995

36-11-202, as last amended by Chapter 192, Laws of Utah 1995

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

Section 1. Section **20A-3-305** is amended to read:

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

(1) Upon timely receipt of an absentee voter application properly filled out and signed, or as soon after receipt of the application as the official absentee ballots for the voting precinct in which the applicant resides have been printed, the election officer shall either:

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

(b) mail an official absentee ballot, postage paid, to the absentee voter and enclose an envelope printed as required in 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) 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 resident voter in full possession of my mental faculties, of the _____ voting precinct in _____ County, Utah; I am entitled to vote in that voting precinct at the next election; and I am entitled by law to vote an absentee ballot. I am not a convicted felon currently incarcerated for commission of a felony.

Signature of Absentee Voter"

Section 2. Section **20A-4-105** is amended to read:

20A-4-105. Standards and requirements for evaluating voter's ballot choices.

(1) Each person counting ballots shall apply the standards and requirements of this section to resolve any questions that arise as ballots are counted.

(2) [If] Except as provided in Subsection (11), if a voter marks more names than there are persons to be elected to an office, or if for any reason it is impossible to determine the choice of any voter for any office to be filled, the counter may not count that voter's ballot for that office.

(3) The counter shall count a defective or incomplete mark on any paper ballot if:

(a) it is in the proper place; and

(b) there is no other mark or cross on the paper ballot indicating the voter's intent to vote other than as indicated by the defective mark.

(4) (a) When the voter has marked the ballot so that it appears that the voter has voted more than one straight ticket, the election judges may not count any votes for party candidates.

(b) The election judges shall count the remainder of the ballot if it is voted correctly.

(5) A counter may not reject a ballot marked by the voter because of marks on the ballot other than those marks allowed by this section unless the extraneous marks on a ballot or group of ballots show an intent by a person or group to mark their ballots so that their ballots can be identified.

(6) (a) In counting the ballots, the counters shall give full consideration to the intent of the voter.

(b) The counters may not invalidate a ballot because of mechanical and technical defects in voting or failure on the part of the voter to follow strictly the rules for balloting required by Chapter

3.

(7) The counters may not reject a ballot because of any error in:

(a) stamping or writing any official endorsement; or

(b) delivering the wrong ballots to any polling place.

(8) The counter may not count any paper ballot that does not have the official endorsement by an election officer.

(9) If the counter discovers that the name of a candidate voted for is misspelled or that the initial letters of a candidate's given name are transposed or omitted in part or altogether, the counter shall count the voter's vote for that candidate if it is apparent that the voter intended to vote for that candidate.

(10) The counter shall count a vote for the president and the vice president of any political party as a vote for the presidential electors selected by the political party.

(11) In counting the valid write-in votes, if, by casting a valid write-in vote, a voter has cast more votes for an office than that voter is entitled to vote for that office, the judges shall count the valid write-in vote as being the obvious intent of the voter.

Section 3. Section **20A-9-404** is amended to read:

20A-9-404. Municipal primary elections.

(1) (a) Except as otherwise provided in this section, candidates for municipal office in all municipalities shall be nominated at a [regular] municipal primary election.

(b) [Regular] Municipal primary elections shall be held:

(i) on the Tuesday following the first Monday in the October before the regular municipal election; and

(ii) whenever possible, at the same polling places as the regular municipal election.

(2) If the number of candidates for a particular municipal office does not exceed twice the number of persons needed to fill that office, a primary election for that office may not be held and the candidates are considered nominated.

(3) (a) For purposes of this Subsection (3), "convention" means an organized assembly of voters or delegates.

(b) (i) By ordinance adopted before the June 1 before a regular municipal election, any third class city or town may exempt itself from a primary election by providing that the nomination of candidates for municipal office to be voted upon at a municipal election be nominated by a political party convention or committee.

(ii) Any primary election exemption ordinance adopted under the authority of this subsection remains in effect until repealed by ordinance.

(c) (i) A convention or committee may not nominate more than one group of candidates or have placed on the ballot more than one group of candidates for the municipal offices to be voted upon at the municipal election.

(ii) A convention or committee may nominate a person who has been nominated by a different convention or committee.

(iii) A political party may not have more than one group of candidates placed upon the ballot and may not group the same candidates on different tickets by the same party under a different name or emblem.

(d) (i) The convention or committee shall prepare a certificate of nomination for each person nominated.

(ii) The certificate of nomination shall:

(A) contain the name of the office for which each person is nominated, the name, post office address, and, if in a city, the street number of residence and place of business, if any, of each person nominated;

(B) designate in not more than five words the political party that the convention or committee represents;

(C) contain a copy of the resolution passed at the convention that authorized the committee to make the nomination;

(D) contain a statement certifying that the name of the candidate nominated by the political party will not appear on the ballot as a candidate for any other political party;

(E) be signed by the presiding officer and secretary of the convention or committee; and

(F) contain a statement identifying the residence and post office address of the presiding

officer and secretary and certifying that the presiding officer and secretary were officers of the convention or committee and that the certificates are true to the best of their knowledge and belief.

(iii) Certificates of nomination shall be filed with the clerk not later than the sixth Tuesday before the November municipal election.

(e) A committee appointed at a convention, if authorized by an enabling resolution, may also make nominations or fill vacancies in nominations made at a convention.

(f) The election ballot shall substantially comply with the form prescribed in Title 20A, Chapter 6, Part 4, Ballot Form Requirements for Municipal Elections, but the party name shall be included with the candidate's name.

(4) (a) Any third class city may adopt an ordinance before the July 1 before the regular municipal election that:

(i) exempts the city from the other methods of nominating candidates to municipal office provided in this section; and

(ii) provides for a partisan primary election method of nominating candidates as provided in this Subsection (4).

(b) (i) Any party that was a registered political party at the last regular general election or regular municipal election is a municipal political party under this section.

(ii) Any political party may qualify as a municipal political party by presenting a petition to the city recorder that:

(A) is signed by registered voters within the municipality equal to at least 20% of the number of votes cast for all candidates for mayor in the last municipal election at which a mayor was elected;

(B) is filed with the city recorder by the seventh Tuesday before the date of the municipal primary election;

(C) is substantially similar to the form of the signature sheets described in Section 20A-7-303; and

(D) contains the name of the municipal political party using not more than five words.

(c) (i) If the number of candidates for a particular office does not exceed twice the number of offices to be filled at the regular municipal election, no partisan primary election for that office

shall be held and the candidates are considered to be nominated.

(ii) If the number of candidates for a particular office exceeds twice the number of offices to be filled at the regular municipal election, those candidates for municipal office shall be nominated at a partisan primary election.

(d) The clerk shall ensure that:

(i) the partisan municipal primary ballot is similar to the ballot forms required by Sections 20A-6-201 and 20A-6-202;

(ii) the candidates for each municipal political party are listed in one or more columns under their party name and emblem;

(iii) the names of candidates of all parties are printed on the same ballot, but under their party designation;

(iv) every ballot is folded and perforated so as to separate the candidates of one party from those of the other parties and so as to enable the elector to separate the part of the ballot containing the names of the party of his choice from the remainder of the ballot; and

(v) the side edges of all ballots are perforated so that the outside sections of the ballots, when detached, are similar in appearance to inside sections when detached.

(e) After marking a municipal primary ballot, the voter shall:

(i) detach the part of the ballot containing the names of the candidates of the party he has voted from the rest of the ballot;

(ii) fold the detached part so that its face is concealed and deposit it in the ballot box; and

(iii) fold the remainder of the ballot containing the names of the candidates of the parties for whom the elector did not vote and deposit it in the blank ballot box.

(f) Immediately after the canvass, the election judges shall, without examination, destroy the tickets deposited in the blank ballot box.

Section 4. Section **36-11-202** is amended to read:

36-11-202. Filing of supplemental reports.

(1) Each lobbyist, principal, and government officer who makes additional expenditures during a subsequent reporting period shall file a supplemental report with the lieutenant governor

containing the same information required in Section 36-11-201:

(a) ten days after the last day of each annual general session, listing all expenditures that were made from January 1 to the last day of the annual general session;

(b) seven days before a general election, listing all expenditures as of five days before that were made since the last day of an annual general session; and

(c) seven days after the end of a special session or veto override session, listing all expenditures that were made during the special session or veto override session.

(2) A supplemental report shall be filed on the next succeeding business day if the date specified in Subsection (1) falls on a Saturday, Sunday, or legal holiday. Any supplemental report shall be considered timely filed if postmarked on its due date.