

CLOSED PRIMARY ELECTION

1999 GENERAL SESSION

STATE OF UTAH

Sponsor: Glenn L. Way

AN ACT RELATING TO ELECTIONS; AUTHORIZING REGISTERED POLITICAL PARTIES TO REQUIRE A CLOSED PRIMARY ELECTION; ESTABLISHING PROCESSES FOR IDENTIFYING, DECLARING, RECORDING, AND CHANGING PARTY AFFILIATION; PROVIDING DIRECTION FOR BALLOT FORM AND ADMINISTRATION OF THE ELECTION; AND MAKING TECHNICAL CORRECTIONS AND CONFORMING CHANGES.

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

AMENDS:

20A-2-107, as last amended by Chapter 213, Laws of Utah 1996

20A-6-201, as enacted by Chapter 2, Laws of Utah 1994

20A-6-202, as enacted by Chapter 2, Laws of Utah 1994

20A-9-403, as last amended by Chapters 24, 182 and 184, Laws of Utah 1997

ENACTS:

20A-3-104.5, Utah Code Annotated 1953

20A-6-203, Utah Code Annotated 1953

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

Section 1. Section **20A-2-107** is amended to read:

20A-2-107. Designating or changing party affiliation.

(1) For each person who registers to vote on or after May 3, 1999, the county clerk shall:

(a) record the party affiliation designated by the voter on the voter registration form as the voter's party affiliation; or

(b) if no political party affiliation is designated by the voter on the voter registration form, record the voter's party affiliation as "unaffiliated."

~~(1)~~ (2) (a) Any registered voter may designate or change the voter's political party

28 affiliation by complying with the procedures and requirements of this [section] Subsection (2).

29 [(2)] (b) Except for the 20 days immediately before a regular primary election, any
30 registered voter may designate or change the voter's political party affiliation by filing a signed
31 form with the county clerk that identifies the registered political party with which the voter chooses
32 to affiliate.

33 Section 2. Section **20A-3-104.5** is enacted to read:

34 **20A-3-104.5. Voting -- Regular primary election.**

35 (1) (a) Any registered voter desiring to vote at the regular primary election shall give his
36 name, the name of the registered political party whose ballot the voter wishes to vote, and, if
37 requested, his residence, to one of the election judges.

38 (b) If an election judge does not know the person requesting a ballot and has reason to
39 doubt that person's identity, the judge shall request identification or have the voter identified by
40 a known registered voter of the district.

41 (c) If the voter is challenged as provided in Section 20A-3-202, the judge shall provide a
42 ballot to the voter if the voter takes an oath that the grounds of the challenge are false.

43 (2) (a) (i) When the voter is properly identified, the election judge in charge of the official
44 register shall check the official register to determine:

45 (A) whether or not the person is registered to vote; and

46 (B) whether or not the person's party affiliation designation in the official register allows
47 the voter to vote the ballot that the voter requested.

48 (ii) If the official register does not affirmatively identify the voter as being affiliated with
49 a registered political party or if the official register identifies the voter as being "unaffiliated," the
50 voter shall be considered to be "unaffiliated."

51 (b) (i) If the voter's name is not found on the official register and, if it is not unduly
52 disruptive of the election process, the election judge shall attempt to contact the county clerk's
53 office to request oral verification of the voter's registration.

54 (ii) If oral verification is received from the county clerk's office, the judge shall record the
55 verification on the official register, determine the voter's party affiliation and the ballot that the
56 voter is qualified to vote, and perform the other administrative steps required by Subsection (3).

57 (c) (i) If the voter's political party affiliation listed in the official register does not allow
58 the voter to vote the ballot that the voter requested, the election judge shall inform the voter of that

59 fact and inform the voter of the ballot or ballots that the voter's party affiliation does allow the
 60 voter to vote.

61 (ii) If the voter does not wish to vote another ballot that the voter is authorized to vote, the
 62 election judge shall inform the voter that the voter may not vote.

63 (3) If the election judge determines that the voter is registered and eligible, under
 64 Subsection (2), to vote the ballot that the voter requested:

65 (a) the election judge in charge of the official register shall:

66 (i) write the ballot number and the name of the registered political party whose ballot the
 67 voter voted opposite the name of the voter in the official register; and

68 (ii) direct the voter to sign his name in the election column in the official register;

69 (b) another judge shall list the ballot number and voter's name in the pollbook; and

70 (c) the election judge having charge of the ballots shall:

71 (i) endorse his initials on the stub;

72 (ii) check the name of the voter on the pollbook list with the number of the stub;

73 (iii) hand the voter the ballot for the registered political party that the voter requested and
 74 for which the voter is authorized to vote; and

75 (iv) allow the voter to enter the voting booth.

76 (4) Whenever the election officer is required to furnish more than one kind of official
 77 ballot to the voting precinct, the election judges of that voting precinct shall give the registered
 78 voter the kind of ballot that the voter is qualified to vote.

79 Section 3. Section **20A-6-201** is amended to read:

80 **20A-6-201. Paper ballots for regular primary elections.**

81 [Each] Unless the requirements of this section are affirmatively modified as provided in
 82 Section 20A-6-203, each election officer shall ensure that:

83 (1) all paper ballots furnished for use at the regular primary election[: (a) ~~are perforated~~
 84 ~~to separate the candidates of one political party from those of the other political parties so that the~~
 85 ~~voter may separate the part of the ballot containing the names of the political party of the voter's~~
 86 ~~choice from the rest of the ballot; (b) have sides that are perforated so that the outside sections of~~
 87 ~~the ballot, when detached, are similar in appearance to the insides sections of the ballot when~~
 88 ~~detached; and (c)] contain no captions or other endorsements except as provided in this section;~~

89 (2) the names of all candidates from each party are listed on the same ballot in one or more

90 columns under their party name and emblem;

91 (3) the political parties are printed on the ballot in the order determined by the county
92 clerk;

93 (4) (a) the ballot contains a ballot stub that is at least one inch wide, placed across the top
94 of the ballot;

95 (b) the ballot number and the words "Judge's Initial ____" are printed on the stub; and

96 (c) ballot stubs are numbered consecutively;

97 (5) immediately below the perforated ballot stub, the following endorsements are printed
98 in 18-point bold type:

99 (a) "Official Primary Ballot for ____ County, Utah";

100 (b) the date of the election; and

101 (c) a facsimile of the signature of the county clerk and the words "county clerk"; [and]

102 (6) after the facsimile signature, the political party emblem and the name of the political
103 party are printed;

104 (7) after the party name and emblem the ballot contains the following printed in not
105 smaller than ten-point bold face, double leaded type: "Instructions to Voters: To vote for a
106 candidate, place a cross (X) in the square at the right of the name of the person for whom you wish
107 to vote and in no other place. Do not vote for any candidate listed under more than one party or
108 group designation.", followed by two one-point parallel horizontal rules;

109 (8) after the rules, the designation of the office for which the candidates seek nomination
110 is printed flush with the left-hand margin and the words: "Vote for one" or "Vote for two or more"
111 are printed to extend to the extreme right of the column in ten-point bold type, followed by a
112 hair-line rule;

113 (9) after the hair-line rule, the names of the candidates are printed in heavy face type
114 between lines or rules 3/8 inch apart, alphabetically according to surnames with surnames last and
115 grouped according to the office that they seek;

116 (10) a square with sides not less than 1/4 inch long is printed to the right of the names of
117 the candidates;

118 (11) the candidate groups are separated from each other by one light and one heavy line
119 or rule; and

120 (12) the nonpartisan candidates are listed as follows:

121 (a) immediately below the listing of the party candidates, the word "NONPARTISAN" is
122 printed in reverse type in an 18-point solid rule that extends the full width of the type copy of the
123 party listing above; and

124 (b) below "NONPARTISAN," the office, the number of candidates to vote for, the
125 candidate's name, the voting square, and any other necessary information is printed in the same
126 style and manner as for party candidates.

127 Section 4. Section **20A-6-202** is amended to read:

128 **20A-6-202. Machine-counted ballots for regular primary elections.**

129 (1) The election officer may require that:

130 (a) the ballot label for a regular primary election consist of several groups of pages, so that
131 a separate group can be used to list the names of candidates seeking nomination of each qualified
132 political party, with additional groups used to list candidates for other nonpartisan offices;

133 (b) the separate groups of pages are identified by color or other suitable means; and

134 (c) the ballot label contain instructions that direct the voter how to vote the ballot.

135 (2) [Each] Unless the requirements of this Subsection (2) are affirmatively modified as
136 provided in Section 20A-6-203, each election officer shall ~~[(a) ensure that the ballot label~~
137 ~~provides a square for the voter to designate the political party in whose primary the voter is voting;~~
138 ~~and (b)]~~ determine the order for printing the names of the political parties on the ballot label.

139 Section 5. Section **20A-6-203** is enacted to read:

140 **20A-6-203. Ballots for regular primary elections.**

141 (1) Notwithstanding Sections 26A-6-201 and 26A-6-202, the lieutenant governor, together
142 with county clerks, suppliers of election materials, and representatives of registered political
143 parties, shall:

144 (a) develop paper ballots, ballot labels, and ballot cards to be used in Utah's regular
145 primary election;

146 (b) ensure that the paper ballots, ballot labels, and ballot cards comply generally, where
147 applicable, with the requirements of Title 20A, Chapter 6, Part 1, General Requirements for All
148 Ballots, and this part; and

149 (c) provide voting booths, election records and supplies, and ballot boxes for each voting
150 precinct as required by Section 20A-5-403.

151 (2) (a) Notwithstanding the requirements of Subsections (1)(b) and (c), Title 20A, Chapter

152 6, Part 1, General Requirements for All Ballots, and Sections 20A-5-403, 20A-6-201, and
153 20A-6-202, the lieutenant governor, together with county clerks, suppliers of election materials,
154 and representatives of registered political parties shall ensure that the paper ballots, ballot labels,
155 ballot cards, and voting booths, election records and supplies, and ballot boxes:

156 (i) facilitate the distribution, voting, and tallying of ballots in a primary where not all
157 voters are authorized to vote for a party's candidate;

158 (ii) simplify the task of election judges, particularly in determining a voter's party
159 affiliation;

160 (iii) minimize the possibility of spoiled ballots due to voter confusion; and

161 (iv) protect against fraud.

162 (b) To accomplish the requirements of this Subsection (2), the lieutenant governor, county
163 clerks, suppliers of election materials, and representatives of registered political parties shall:

164 (i) mark, prepunch, or otherwise identify ballot cards as being for a particular registered
165 political party; and

166 (ii) instruct persons counting the ballots to count only those votes for candidates from the
167 registered political party whose ballot the voter received.

168 (c) To accomplish the requirements of this Subsection (2), the lieutenant governor, county
169 clerks, suppliers of election materials, and representatives of registered political parties may:

170 (i) notwithstanding the requirements of Sections 20A-6-101 and 20A-6-102, use different
171 colored ballot cards for each registered political party;

172 (ii) place ballot labels for each registered political party in different voting booths and
173 direct voters to the particular voting booth for the political party whose ballot they are voting; or

174 (iii) consider other means of accomplishing the objectives outlined in Subsection (2)(a).

175 Section 6. Section **20A-9-403** is amended to read:

176 **20A-9-403. Regular primary elections.**

177 (1) (a) The fourth Tuesday of June of each even-numbered year is designated as regular
178 primary election day.

179 (b) Each registered political party that chooses to use the primary election process to
180 nominate some or all of its candidates shall comply with the requirements of this section.

181 (2) (a) [~~(i) Each~~] As a condition for using the state's election system, each registered
182 political party that wishes to participate in the primary election shall:

- 183 (i) declare their intent to participate in the primary election;
184 (ii) identify one or more registered political parties whose members may vote for the
185 registered political party's candidates and whether or not persons identified as unaffiliated with a
186 political party may vote for the registered political party's candidates;
187 (iii) identify by name and office, all the of the registered political party's candidates for all
188 offices;
189 (iv) certify that information to the lieutenant governor no later than 5:00 p.m. on May 13
190 of each even-numbered year; and
191 (v) submit the names of its county candidates to the county clerks [and the names of all
192 of its candidates to the lieutenant governor] by 5 p.m. on May 13 of each even-numbered year.
193 ~~[(ii)]~~ (b) By 5 p.m. on May 16 of each even-numbered year, the lieutenant governor shall
194 send the county clerks a certified list of the names of all statewide or multicounty candidates that
195 must be printed on the primary ballot.
196 ~~[(b)]~~ (c) (i) Except as provided in Subsection ~~[(b)]~~ (2)(c)(ii), if a registered political party
197 does not wish to participate in the primary election, it shall submit the names of its county
198 candidates to the county clerks and the names of all of its candidates to the lieutenant governor by
199 5 p.m. on May 30 of each even-numbered year.
200 (ii) ~~[Notwithstanding Subsection (b)(i), a]~~ A registered political party's candidates for
201 President and Vice-President of the United States shall be certified to the lieutenant governor as
202 provided in Subsection 20A-9-202(4).
203 ~~[(c)]~~ (d) Each political party shall certify the names of its presidential and vice-presidential
204 candidates and presidential electors to the lieutenant governor's office by August 30 of each
205 presidential election year.
206 (3) The county clerk shall:
207 (a) review the declarations of candidacy filed by candidates for local boards of education
208 to determine if more than two candidates have filed for the same seat;
209 (b) place the names of all candidates who have filed a declaration of candidacy for a local
210 board of education seat on the nonpartisan section of the ballot if more than two candidates have
211 filed for the same seat; and
212 (c) conduct a lottery to determine the order of the candidates' names on the ballot.
213 (4) After the county clerk receives the certified list from a registered political party, the

214 county clerk shall post or publish a primary election notice in substantially the following form:

215 "Notice is given that a primary election will be held Tuesday, June ____, 19__, to nominate
216 party candidates for the parties and nonpartisan offices listed on the primary ballot. The polling
217 place for voting precinct ____ is _____. The polls will open at 7 a.m. and continue open until 8
218 p.m. of the same day. Attest: county clerk".

219 (5) If a registered political party has restricted voting for its candidates as authorized by
220 Subsection (2)(a)(ii), the lieutenant governor shall direct the county clerks and other election
221 officials to allow only those voters meeting the registered political party's criteria to vote for that
222 party's candidates.

223 [~~5~~] (6) (a) Candidates receiving the highest number of votes cast for each office at the
224 regular primary election are nominated by their party or nonpartisan group for that office.

225 (b) If two or more candidates are to be elected to the office at the regular general election,
226 those party candidates equal in number to positions to be filled who receive the highest number
227 of votes at the regular primary election are the nominees of their party for those positions.

228 [~~6~~] (7) (a) When a tie vote occurs in any primary election for any national, state, or other
229 office that represents more than one county, the governor, lieutenant governor, and attorney general
230 shall, at a public meeting called by the governor and in the presence of the candidates involved,
231 select the nominee by lot cast in whatever manner the governor determines.

232 (b) When a tie vote occurs in any primary election for any county office, the district court
233 judges of the district in which the county is located shall, at a public meeting called by the judges
234 and in the presence of the candidates involved, select the nominee by lot cast in whatever manner
235 the judges determine.

236 [~~7~~] (8) The expense of providing all ballots, blanks, or other supplies to be used at any
237 primary election provided for by this section, and all expenses necessarily incurred in the
238 preparation for or the conduct of that primary election shall be paid out of the treasury of the
239 county or state, in the same manner as for the regular general elections.

Legislative Review Note

as of 2-10-99 9:30 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel