LEGISLATIVE GENERAL COUNSEL
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H.B. 29
1st Sub. (Buff)

Senator Peter C. Knudson proposes to substitute the following bill:

ELECTION LAW - TECHNICAL AMENDMENTS

1

2001 GENERAL SESSION

2

STATE OF UTAH

3

Sponsor: Bryan D. Holladay

4

5 **This act modifies the Election Code to address the municipal primary canvass process, tie**

6 **votes, the power of the Legislature to modify initiatives, misconduct of electors and offices**

7 **in local initiatives and referenda, and the form of the special military write-in absentee**

8 **ballot. This act directs clerks to prepare overseas citizen absentee voter ballots and makes**

9 **technical corrections. This act has an immediate effective date.**

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

11 AMENDS:

12   **20A-1-304**, as enacted by Chapter 1, Laws of Utah 1993

13   **20A-3-404**, as enacted by Chapter 1, Laws of Utah 1993

14   **20A-4-401**, as last amended by Chapter 3, Laws of Utah 2000

15   **20A-7-212**, as enacted by Chapter 1, Laws of Utah 1994

16   **20A-7-512**, as last amended by Chapter 165, Laws of Utah 1995

17   **20A-7-612**, as last amended by Chapter 165, Laws of Utah 1995

18 ENACTS:

19   **20A-3-404.5**, Utah Code Annotated 1953

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

21   Section 1. Section **20A-1-304** is amended to read:

22   **20A-1-304. Tie votes.**

23   [If] (1) Except as provided in Subsection (2), if two or more candidates for a position have

24 an equal and the highest number of votes for any office, the election officer shall determine by lot

25 which candidate is selected in a public meeting in the presence of each person subject to the tie

26   within 30 days of the canvass or within 30 days of the recount if one is requested or held.

27   (2) For any municipal primary election, if two or more candidates for a position have an

28   equal and the highest number of votes for any office, the election officer shall determine by lot

29   which candidate is selected in a public meeting in the presence of each person subject to the tie

30   within five days of the canvass or within five days of the recount if one is requested or held.

31   Section 2. Section **20A-3-404** is amended to read:

32   **20A-3-404.   Special military write-in absentee ballots.**

33   (1) Notwithstanding any other provisions of this chapter, a military voter may apply for

34   a special write-in absentee ballot not later than 30 days before an election.

35   (2) To qualify for a special write-in absentee ballot, a military voter shall:

36   (a) apply for a special write-in absentee ballot by submitting a federal postcard application

37   form; and

38   (b) state on the form or on a separate paper submitted with the form that he is unable to

39   vote by regular absentee ballot or in person because of his military service.

40   (3) Upon receipt of the application, the county clerk shall issue and mail a special military

41   write-in ballot[, in substantially the following form, to the military voter who requested it].

42   ["OFFICIAL MILITARY WRITE-IN]

43   [ABSENTEE-VOTER BALLOT]

44   [Instructions: You may vote this ballot by:]

45   [1. Listing the name of the party for whose candidate for each office you wish to vote; or]

46   [2. By listing the name of the candidate, if known, or the person of your choice for whom

47   you wish to vote. BALLOT]

48   [President/Vice-president _____]

49   [United States Senator _____]

50   [United States Representative _____"]

51   Section 3. Section **20A-3-404.5** is enacted to read:

52   **20A-3-404.5. Special overseas citizen voter absentee ballot.**

53   (1) As used in this section, "federal office" means President of the United States, United

54   States Senator, and United States Representative.

55   (2) Each county clerk, after consulting with the chief election officer, shall prepare a

56   special overseas citizen voter ballot containing a means for the overseas citizen voter to vote for

57 each federal office that will appear on the regular general election ballot.

58   Section 4. Section **20A-4-401** is amended to read:

59   **20A-4-401. Recounts -- Procedure.**

60   (1) (a) (i) For any regular primary, [municipal primary,] regular general, or municipal

61 general election, or the Western States Presidential primary, when any candidate loses by not more

62 than a total of one vote per voting precinct, the candidate may file a request for a recount with the

63 appropriate election officer within seven days after the canvass.

64   (ii) For any municipal primary election, when any candidate loses by not more than a total

65 of one vote per voting precinct, the candidate may file a request for a recount with the appropriate

66 election officer within three days after the canvass.

67   (b) The election officer shall:

68   (i) supervise the recount;

69   (ii) recount all ballots cast for that office;

70   (iii) reexamine all unopened absentee ballots to ensure compliance with Chapter 3, Part

71 3; and

72   (iv) declare elected the person receiving the highest number of votes on the recount.

73   (2) (a) Any ten voters who voted in an election when any ballot proposition was on the

74 ballot may file a request for a recount with the appropriate election officer within seven days of

75 the canvass.

76   (b) The election officer shall:

77   (i) supervise the recount;

78   (ii) recount all ballots cast for that ballot proposition;

79   (iii) reexamine all unopened absentee ballots to ensure compliance with Chapter 3, Part

80 3; and

81   (iv) declare the ballot proposition to have "passed" or "failed" based upon the results of

82 the recount.

83   (c) Proponents and opponents of the ballot proposition may designate representatives to

84 witness the recount.

85   (d) The person or entity requesting the recount shall pay the costs of the recount.

86   (3) Costs incurred by recount under Subsection (1) may not be assessed against the person

87 requesting the recount.

88   Section 5. Section **20A-7-212** is amended to read:

89   **20A-7-212.   Effective date.**

90   (1) A proposed law submitted to the Legislature by initiative petition and enacted by them

91   takes effect 60 days after the final adjournment of the session of the Legislature that passed it,

92   unless a different effective date is included in the proposed law and the proposed law passes the

93   Legislature by a two-thirds vote of the members elected to each house of the Legislature.

94   (2) (a) Any proposed law submitted to the people by initiative petition that is approved by

95   the voters at any election does not take effect until at least five days after the date of the official

96   proclamation of the vote by the governor.

97   (b) Any act or law submitted to the people by initiative that is approved by the voters at

98   any election takes effect on the date specified in the initiative petition.

99   (c) If the initiative petition does not specify an effective date, a law approved by the voters

100 at any election takes effect five days after the date of the official proclamation of the vote by the

101 governor.

102   (3) (a) The governor may not veto a law adopted by the people.

103   (b) The Legislature may amend any [laws] initiative approved by the people at any

104 legislative session [after the law has taken effect].

105   Section 6. Section **20A-7-512** is amended to read:

106   **20A-7-512.   Misconduct of electors and officers -- Penalty.**

107   (1) It is unlawful for any person to:

108   (a) sign any name other than his own to any initiative petition;

109   (b) knowingly sign his name more than once for the same measure at one election;

110   (c) sign an initiative knowing he is not a legal voter; or

111   (d) knowingly and willfully violate any provision of this part.

112   (2) It is unlawful for any person to sign the verification for an initiative packet knowing

113 that:

114   (a) he does not meet the residency requirements of Section 20A-2-105;

115   (b) he has not witnessed the signatures of those persons whose names appear in the

116 initiative packet; or

117   (c) one or more persons whose signatures appear in the initiative packet is either:

118   (i) not registered to vote in Utah; or

119   (ii) does not intend to become registered to vote in Utah.

120   [(2)] (3) Any person violating this part is guilty of a class A misdemeanor.

121   (4) The county attorney or municipal attorney shall prosecute any violation of this section.

122   Section 7. Section **20A-7-612** is amended to read:

123   **20A-7-612.   Misconduct of electors and officers -- Penalty.**

124   (1) It is unlawful for any person to:

125   (a) sign any name other than his own to any referendum petition;

126   (b) knowingly sign his name more than once for the same measure at one election;

127   (c) sign a referendum knowing he is not a legal voter; or

128   (d) knowingly and willfully violate any provision of this part.

129   (2) It is unlawful for any person to sign the verification for a referendum packet knowing

130   that:

131   (a) he does not meet the residency requirements of Section 20A-2-105;

132   (b) he has not witnessed the signatures of those persons whose names appear in the

133   referendum packet; or

134   (c) one or more persons whose signatures appear in the referendum packet is either:

135   (i) not registered to vote in Utah; or

136   (ii) does not intend to become registered to vote in Utah.

137   [(2)] (3) Any person violating this part is guilty of a class A misdemeanor.

138   (4) The county attorney or municipal attorney shall prosecute any violation of this section.

139   Section 8. **Effective date.**

140   If approved by two-thirds of all the members elected to each house, this act takes effect

141   upon approval by the governor, or the day following the constitutional time limit of Utah

142   Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto, the

143   date of veto override.