

**ELECTION LAW AMENDMENTS - DISABLED
VOTERS**

2002 GENERAL SESSION

STATE OF UTAH

Sponsor: Richard M. Siddoway

This act modifies the Election Code to provide access to voting for people with a disability. The act requires the physical inspection of all polling places as of May 15, 2003, to ensure access by people with a disability. The act requires that any issues concerning inaccessibility to polling places by people with a disability reported to the county clerk on or after May 15, 2002, shall be forwarded to the Office of the Lieutenant Governor and within six months of the complaint, be remedied by the county clerk at the particular location or the county clerk shall designate an alternative accessible location. If, however, no practical solution can be identified, the county clerk shall file with the Office of the Lieutenant Governor a written explanation identifying the reasons compliance cannot reasonably be met. The act makes technical changes. The act provides an effective date.

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

AMENDS:

20A-3-304, as last amended by Chapter 9, Laws of Utah 2001

20A-3-305, as last amended by Chapter 56, Laws of Utah 1999

20A-5-403, as last amended by Chapter 340, Laws of Utah 1995

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

Section 1. Section **20A-3-304** is amended to read:

20A-3-304. Application for absentee ballot -- Time for filing and voting.

(1) As used in this section, "absent elector" means a person who:

(a) is physically, emotionally, or mentally impaired;

(b) will be serving as an election judge or who has election duties in another voting precinct;

(c) is detained or incarcerated in a jail or prison as a penalty for committing a misdemeanor;

- (d) ~~[suffers]~~ has a legal disability;
- (e) is prevented from voting in a particular location because of religious tenets or other strongly held personal values;
- (f) is called for jury duty in state or federal court; or
- (g) otherwise expects to be absent from the voting precinct during the hours the polls are open on election day.

(2) A registered voter who is or will be an absent elector may file an absentee ballot application with the appropriate election officer for an official absentee ballot.

(3) (a) Except as provided in Subsection (3)(b), each election officer shall prepare blank applications for absentee ballot applications in substantially the following form:

"I, _____, a qualified elector, ~~[in full possession of my mental faculties,]~~ residing at _____ Street, _____ City, _____ County, Utah to my best knowledge and belief am entitled to vote by absentee ballot at the next election.

I apply for an official absentee ballot to be voted by me at the election.

Date _____ (month\day\year) Signed _____

Voter"

(b) Each election officer shall prepare blank applications for absentee ballot applications for regular primary elections and for the Western States Presidential Primary in substantially the following form:

"I, _____, a qualified elector, ~~[in full possession of my mental faculties,]~~ residing at _____ Street, _____ City, _____ County, Utah to my best knowledge and belief am entitled to vote by absentee ballot at the next election.

I apply for an official absentee ballot for the _____ political party to be voted by me at the primary election.

I understand that I must be affiliated with or authorized to vote the political party's ballot that I request.

Dated _____ (month\day\year) _____ Signed _____

Voter"

If requested by the applicant, the election officer shall:

- (i) mail or fax the application blank to the absentee voter; or
- (ii) deliver the application blank to any voter who personally applies for it at the office of the election officer.

(4) (a) (i) Except as provided in Subsections (4)(a)(ii) and (iii), the voters shall file the application for an absentee ballot with the appropriate election officer no later than the Friday before election day.

(ii) Overseas applicants shall file their applications with the appropriate election officer no later than 20 days before the day of election.

(iii) Voters applying for an absentee ballot for the Western States Presidential Primary shall file the application for an absentee ballot with the appropriate election officer not later than the Tuesday before election day.

(b) Persons voting an absentee ballot at the office of the election officer shall apply for and cast their ballot no later than the day before the election.

(5) (a) A county clerk may establish a permanent absentee voter list.

(b) The clerk shall place on the list the name of any person who:

- (i) requests permanent absentee voter status; and
- (ii) meets the requirements of this section.

(c) (i) Each year, the clerk shall mail a questionnaire to each person whose name is on the absentee voter list.

(ii) The questionnaire shall allow the absentee person to verify the voter's residence and inability to vote at the voting precinct on election day.

(iii) The clerk may remove the names of any voter from the absentee voter registration list if:

- (A) the voter is no longer listed in the official register; or
- (B) the voter fails to verify the voter's residence and absentee status.

(d) The clerk shall provide a copy of the permanent absentee voter list to election officers for use in elections.

Section 2. 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 qualified 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 3. Section **20A-5-403** is amended to read:

20A-5-403. Polling places -- Booths -- Ballot boxes -- Inspections -- Provisions -- Arrangements.

(1) Each election officer shall:

- (a) designate polling places for each voting precinct in the jurisdiction; and
- (b) obtain the approval of the county or municipal legislative body or special district governing board for those polling places.

(2) (a) For each polling place, the election officer shall provide:

(i) an American flag;
(ii) a sufficient number of voting booths or compartments;
(iii) the voting devices, voting booths, ballots, ballot boxes, ballot labels, ballot cards, write-in ballots, and any other records and supplies necessary to enable a voter to vote; and
(iv) the constitutional amendment cards and voter information pamphlets required by Part 1.

(b) Each election officer shall ensure that:

(i) each voting booth is at least three feet square, contains a shelf that is at least one foot wide extending across one side of the booth at a convenient height for writing, and is arranged so that the voter can prepare his ballot screened from observation;

(ii) there is at least one voting booth for every 100 voters who voted at the last similar election in the voting precinct; and

(iii) there is at least one voting booth that is configured to accommodate persons with disabilities.

(c) Each county clerk shall provide a ballot box for each polling place that is large enough to properly receive and hold the ballots to be cast.

(3) (a) As of May 15, 2003, all polling places shall be physically inspected by each county clerk to ensure access by people with disabilities.

(b) Any issues concerning inaccessibility to polling places by people with a disability discovered during the inspections referred to in Subsection (a) or reported to the county clerk on or after May 15, 2002 shall be:

(i) forwarded to the Office of the Lieutenant Governor; and

(ii) within six months of the time of the complaint, the issue of inaccessibility shall be either:

(A) remedied at the particular location by the county clerk;

(B) the county clerk shall designate an alternative accessible location for the particular precinct; or

(C) if no practical solution can be identified, file with the Office of the Lieutenant Governor a written explanation identifying the reasons compliance cannot reasonably be met.

~~[(3)]~~ (4) The municipality in which the election is held shall pay the cost of conducting each municipal election, including the cost of printing and supplies.

~~[(4)]~~ (5) The county clerk shall make detailed entries of all proceedings had under this chapter.

Section 4. **Effective date.**

This act takes effect on May 15, 2002.