

PROVISIONAL BALLOT AMENDMENTS

2003 GENERAL SESSION

STATE OF UTAH

Sponsor: Dan R. Eastman

This act modifies the Election Code by changing the requirements for preparing, voting, counting, and otherwise administering provisional ballots. The act also requires county clerks to implement a system to inform voters who have cast a provisional ballot whether or not their vote was counted. This act provides an effective date.

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

AMENDS:

20A-2-102, as enacted by Chapter 1, Laws of Utah 1993

20A-2-307, as last amended by Chapter 177, Laws of Utah 2002

20A-3-105.5, as enacted by Chapter 177, Laws of Utah 2002

20A-4-107, as enacted by Chapter 177, Laws of Utah 2002

20A-6-105, as enacted by Chapter 177, Laws of Utah 2002

ENACTS:

20A-6-105.5, Utah Code Annotated 1953

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

Section 1. Section **20A-2-102** is amended to read:

20A-2-102. Registration a prerequisite to voting.

[A] (1) Except as provided in Subsection (2), a person may not vote at any election unless that person is registered to vote as required by this chapter.

(2) A person may vote a provisional ballot as provided in Section 20A-2-307 for:

(a) a regular general election;

(b) a regular primary election; or

(c) an election for federal office.

Section 2. Section **20A-2-307** is amended to read:

20A-2-307. County clerks' instructions to election judges.

(1) Each county clerk shall instruct election judges to allow a voter to vote a regular

ballot if:

- (a) the voter has moved from one address within a voting precinct to another address within the same voting precinct; and
 - (b) the voter affirms the change of address orally or in writing before the election judges.
- (2) Each county clerk shall instruct election judges to allow a person to vote a provisional ballot if:

[~~(a) the voter is registered to vote in another voting precinct but has changed residence to the election judge's voting precinct and has not registered to vote in that voting precinct; and~~]
[~~(b) the election judge's voting precinct is in the same county and congressional district as the voter's previous voting precinct.~~]

- (a) the voter's name does not appear on the official register; or
- (b) the voter is challenged as provided in Section 20A-3-202.

Section 3. Section **20A-3-105.5** is amended to read:

20A-3-105.5. Manner of voting -- Provisional ballot.

- (1) As used in this section:
 - (a) "Proof of identity" means some form of photo identification, such as a driver license or identification card, that establishes a person's identity.
 - (b) "Proof of residence" means some official document or form, such as a driver license or utility bill that establishes a person's residence.
- (2) The election judges shall follow the procedures and requirements of this section when:
 - (a) the person's right to vote is challenged as provided in Section 20A-3-202; or
 - (b) the person's name is not found on the official register.
- (3) When faced with one of the circumstances outlined in Subsection (2), the election judge shall:
 - (a) request that the person provide proof of identity and proof of ~~residency~~ residence; and
 - (b) review the proof of identity and proof of ~~residency~~ residence provided by the

person.

(4) If the election judge is satisfied that the person has established their identity and their residence in the voting precinct:

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

(i) record in the official register the type of source documents that established the person's proof of identity and proof of [residency] residence;

(ii) write the provisional ballot envelope number opposite the name of the voter in the official register; and

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

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

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

(i) endorse his initials on the stub;

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

(iii) give the voter a ballot and a provisional ballot envelope; and

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

(5) If the election judge is not satisfied that the voter has provided sufficient proof of identity and proof of residence:

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

(i) record in the official register that the voter did not provide adequate proof of identity and proof of residence;

(ii) write the provisional ballot envelope number opposite the name of the voter in the official register; and

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

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

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

(i) endorse his initials on the stub;

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

(iii) give the voter a ballot and a provisional ballot envelope; and

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

[~~(5)~~] (6) Whenever the election officer is required to furnish more than one kind of official ballot to a voting precinct, the election judges of that voting precinct shall give the registered voter the kind of ballot that the voter is qualified to vote.

Section 4. Section **20A-4-107** is amended to read:

20A-4-107. Review and disposition of provisional ballot envelopes.

(1) As used in this section, a voter is "legally entitled to vote" if:

(a) the voter:

(i) is registered to vote in the county;

(ii) resides within the voting precinct where the voter seeks to vote; and

(iii) provided sufficient proof of identity and proof of residence to the election judge as indicated by a notation in the official register;

(b) the voter:

(i) is registered to vote in the county; and

(ii) did not vote in the voter's precinct of residence, but the ballot that the voter voted is identical to the ballot voted in the voter's precinct of residence; or

(c) the voter:

(i) is registered to vote in the county;

(ii) the judge recorded in the official register that the voter either failed to provide proof of identity and proof of residence or the proof of identity and proof of residence was inadequate; and

(iii) the county clerk verifies the voter's proof of identity and proof of residence through some other means.

[~~(1)~~] (2) (a) Upon receipt of provisional ballot envelopes, the election officer shall review the affirmation on the face of each provisional ballot envelope and determine if the person signing the affirmation is a registered voter and legally entitled to vote the ballot that the voter voted.

(b) If the election officer determines that the person is not a registered voter or is not

legally entitled to vote the ballot that the voter voted, the election officer shall retain the ballot envelope, unopened, for the period specified in Section 20A-4-202 unless ordered by a court to produce or count it.

(c) If the election officer determines that the person is a registered voter and is legally entitled to vote the ballot that the voter voted, the election officer shall remove the ballot from the provisional ballot envelope and place the ballot with the absentee ballots to be counted with those ballots at the canvass.

(d) The election officer may not count, or allow to be counted a provisional ballot unless the voter's proof of identity and proof of residence is established by a preponderance of the evidence.

[(2)] (3) If the election officer determines that the person is a registered voter, the election officer shall ensure that the voter registration records are updated to reflect the information provided on the provisional ballot envelope.

(4) If the election officer determines that the person is not a registered voter and the information on the provisional ballot envelope is complete, the election officer shall:

- (a) consider the provisional ballot envelope a voter registration form; and
- (b) register the voter.

Section 5. Section **20A-6-105** is amended to read:

20A-6-105. Provisional ballot envelopes.

(1) Each election officer shall ensure that provisional ballot envelopes are printed in substantially the following form:

"AFFIRMATION

Are you a citizen of the United States of America? Yes No

Will you be 18 years old on or before election day? Yes No

If you checked "no" in response to either of the two above questions, do not complete this form.

Name of Voter _____

First

Middle

Last

Driver License or Identification Card Number _____

State of Issuance of Driver License or Identification Card Number

Date of Birth _____

Street Address of Principal Place of Residence

City County State Zip Code

Telephone Number (optional) _____

Last four digits of Social Security Number [(optional)]

Place of Birth _____

Last former address at which I was registered to vote (if known)

City County State Zip Code

Voting Precinct (if known) _____

I, (please print your full name) _____ do solemnly swear or affirm:

1. that I am currently registered to vote in _____, County, Utah; that I have not moved out of the county since the date of the original registration; that I have not voted in this election in any other precinct; and that I request that I be permitted to vote in this election in this precinct;

2. that on or about _____ (Date), I completed a voter registration application at _____ (please indicate the office at which you completed the voter registration application, for example, Human Services, Driver License, etc., or, if you filled out a mail-in registration form, please indicate.);

3. that I have previously registered to vote in _____, County, Utah; that I have not resided outside of that county since completing that registration; and that I am entitled to vote today; and

4. subject to penalty of law for false statements, that the information contained in this

form is true, and that I am a citizen of the United States and a resident of Utah, residing at the above address; and that I am at least 18 years old and have resided in Utah for the 30 days immediately before this election.

Signed _____

Dated _____ "

(2) The provisional ballot envelope shall include:

(a) a unique number;

(b) a detachable part that includes the unique number; and

(c) a telephone number, internet address, or other indicator of a means, in accordance with Section 20A-6-105.5, where the voter can find out if the provisional ballot was counted.

Section 6. Section **20A-6-105.5** is enacted to read:

20A-6-105.5. Voter access to provisional ballot information.

Each county clerk shall implement, through an internet website, toll-free telephone number, or other means, a system where an individual who voted a provisional ballot may, free of charge, determine if the voter's vote was counted, and, if the vote was not counted, the reason the vote was not counted.

Section 7. **Effective date.**

This act takes effect on May 5, 2003, except that Sections 20A-6-105 and 20A-6-105.5 take effect on May 1, 2004.