

MUNICIPAL ELECTION LAW PROVISIONS

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Douglas C. Agard

Senate Sponsor: Gregory S. Bell

LONG TITLE

General Description:

This bill modifies provisions of the Election Code.

Highlighted Provisions:

This bill:

- ▶ makes technical amendments;
- ▶ modifies definitions;
- ▶ moves the date of the municipal primary election from October to September;
- ▶ modifies provisions governing the days and hours of poll operation for early voting

in ~~§~~ local special elections, ~~§~~ municipal primary elections ~~§~~, ~~§~~ and municipal general elections;

~~§ [provides that use of machines that provide disability access is not required for early voting in municipal primary elections and municipal elections;]~~ ~~§~~

- ▶ permits municipalities to combine up to four voting precincts into a single precinct for voting purposes in municipal elections;

▶ provides that the use of electronic voting machines is not required for municipal primary elections or municipal general elections; ~~§~~ and ~~§~~

- ▶ permits poll workers who are assigned to a voting precinct during a municipal election to reside within the county, rather than within the precinct they are assigned to ~~§~~ [; and

~~▶ adjusts the deadline for filing declarations of candidacy and nomination petitions for municipal elections from August to July]~~ ~~§~~ .

H.B. 347



28 **Monies Appropriated in this Bill:**

29 None

30 **Other Special Clauses:**

31 None

32 **Utah Code Sections Affected:**

33 AMENDS:

- 34 **10-3-201**, as enacted by Chapter 48, Laws of Utah 1977
- 35 **10-3-208**, as repealed and reenacted by Chapter 209, Laws of Utah 2004
- 36 **20A-1-102**, as last amended by Chapters 16, 264 and 326, Laws of Utah 2006
- 37 **20A-1-201.5**, as last amended by Chapter 355, Laws of Utah 2006
- 38 **20A-3-601**, as enacted by Chapter 264, Laws of Utah 2006
- 39 **20A-3-602**, as enacted by Chapter 264, Laws of Utah 2006
- 40 **20A-3-603**, as enacted by Chapter 264, Laws of Utah 2006
- 41 **20A-5-301**, as last amended by Chapter 292, Laws of Utah 2003
- 42 **20A-5-302**, as last amended by Chapter 5, Laws of Utah 2005, First Special Session
- 43 **20A-5-602**, as last amended by Chapter 40, Laws of Utah 1998
- 44 **20A-9-203**, as last amended by Chapters 28 and 226, Laws of Utah 2006
- 45 **20A-9-404**, as last amended by Chapter 292, Laws of Utah 2003



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

48 Section 1. Section **10-3-201** is amended to read:

49 **10-3-201. Municipal general election -- Terms of office.**

50 (1) ~~On~~ Consistent with Section 20A-1-202, on the Tuesday after the first Monday in
 51 November~~[, 1977, and biennially thereafter, an election]~~ in odd-numbered years, a municipal
 52 general election shall be held in all municipalities to fill all elective offices vacated by 12
 53 o'clock noon on the first Monday in the January following the election. The officers elected
 54 shall continue in the office to which they were elected for four years except in case of death,
 55 resignation, removal or disqualification from office.

56 (2) The officers so elected shall begin their term of office at 12 o'clock noon on the
 57 first Monday in January following their election.

58 Section 2. Section **10-3-208** is amended to read:

59 **10-3-208. Campaign finance statement in municipal election.**

60 (1) As used in this section:

61 (a) "Reporting date" means:

62 (i) ten days before a municipal general election, for a campaign finance statement

63 required to be filed no later than seven days before a municipal general election; and

64 (ii) the day of filing, for a campaign finance statement required to be filed no later than

65 30 days after a municipal primary or general election.

66 (b) "Reporting limit" means:

67 (i) \$50; or

68 (ii) an amount lower than \$50 that is specified in an ordinance of the municipality.

69 (2) (a) (i) Each candidate for municipal office who is not eliminated at a municipal

70 primary election shall file with the municipal clerk or recorder a campaign finance statement:

71 (A) no later than seven days before the date of the municipal general election; and72 (B) no later than 30 days after the date of the municipal general election.

73 (ii) Each candidate for municipal office who is eliminated at a municipal primary

74 election shall file with the municipal clerk or recorder a campaign finance statement no later

75 than 30 days after the date of the municipal primary election.

76 (b) Each campaign finance statement under Subsection (2)(a) shall:

77 (i) except as provided in Subsection (2)(b)(ii):

78 (A) report all of the candidate's itemized and total:

79 (I) campaign contributions, including in-kind and other nonmonetary contributions, [~~as~~
80 ~~of~~] received before the close of the reporting date; and81 (II) campaign expenditures [~~as~~] made through the close of the reporting date; and

82 (B) identify:

83 (I) for each contribution that exceeds the reporting limit, the amount of the contribution
84 and the name of the donor;85 (II) the aggregate total of all contributions that individually do not exceed the reporting
86 limit; and87 (III) for each campaign expenditure, the amount of the expenditure and the name of the
88 recipient of the expenditure; or

89 (ii) report the total amount of all campaign contributions and expenditures if the

90 candidate receives \$500 or less in campaign contributions and spends \$500 or less on the
91 candidate's campaign.

92 (3) (a) A municipality may, by ordinance:

93 (i) provide a reporting limit lower than \$50;

94 (ii) require greater disclosure of campaign contributions and expenditures than is
95 required in this section; and

96 (iii) impose additional penalties on candidates who fail to comply with the applicable
97 requirements beyond those imposed by this section.

98 (b) A candidate for municipal office is subject to the provisions of this section and not
99 the provisions of an ordinance adopted by the municipality under Subsection (3)(a) if:

100 (i) the municipal ordinance establishes requirements or penalties that differ from those
101 established in this section; and

102 (ii) the municipal clerk or recorder fails to notify the candidate of the provisions of the
103 ordinance as required in Subsection (4).

104 (4) Each municipal clerk or recorder shall, at the time the candidate for municipal
105 office files a declaration of candidacy, and again 14 days before each municipal general
106 election, notify the candidate in writing of:

107 (a) the provisions of statute or municipal ordinance governing the disclosure of
108 campaign contributions and expenditures;

109 (b) the dates when the candidate's campaign finance statement is required to be filed;
110 and

111 (c) the penalties that apply for failure to file a timely campaign finance statement,
112 including the statutory provision that requires removal of the candidate's name from the ballot
113 for failure to file the required campaign finance statement when required.

114 (5) Notwithstanding any provision of Title 63, Chapter 2, Government Records Access
115 and Management Act, the municipal clerk or recorder shall make each campaign finance
116 statement filed by a candidate available for public inspection and copying no later than one
117 business day after the statement is filed.

118 (6) (a) If a candidate fails to file a campaign finance statement before the municipal
119 general election by the deadline specified in Subsection (2)(a)(i)(A), the municipal clerk or
120 recorder shall inform the appropriate election official who:

- 121 (i) shall:
- 122 (A) if practicable, remove the candidate's name from the ballot by blacking out the
- 123 candidate's name before the ballots are delivered to voters; or
- 124 (B) if removing the candidate's name from the ballot is not practicable, inform the
- 125 voters by any practicable method that the candidate has been disqualified and that votes cast for
- 126 the candidate will not be counted; and
- 127 (ii) may not count any votes for that candidate.
- 128 (b) Notwithstanding Subsection (6)(a), a candidate who files a campaign finance
- 129 statement seven days before a municipal general election is not disqualified if:
- 130 (i) the statement details accurately and completely the information required under
- 131 Subsection (2)(b), except for inadvertent omissions or insignificant errors or inaccuracies; and
- 132 (ii) the omissions, errors, or inaccuracies are corrected in an amended report or in the
- 133 next scheduled report.
- 134 (7) A campaign finance statement required under this section is considered filed if it is
- 135 received in the municipal clerk or recorder's office by 5 p.m. on the date that is it due.
- 136 (8) (a) A private party in interest may bring a civil action in district court to enforce the
- 137 provisions of this section or an ordinance adopted under this section.
- 138 (b) In a civil action under Subsection (8)(a), the court may award costs and attorney's
- 139 fees to the prevailing party.
- 140 Section 3. Section **20A-1-102** is amended to read:
- 141 **20A-1-102. Definitions.**
- 142 As used in this title:
- 143 (1) "Active voter" means a registered voter who has not been classified as an inactive
- 144 voter by the county clerk.
- 145 (2) "Automatic tabulating equipment" means apparatus that automatically examines
- 146 and counts votes recorded on paper ballots or ballot sheets and tabulates the results.
- 147 (3) "Ballot" means the storage medium, whether paper, mechanical, or electronic, upon
- 148 which a voter records his votes and includes ballot sheets, paper ballots, electronic ballots, and
- 149 secrecy envelopes.
- 150 (4) "Ballot sheet":
- 151 (a) means a ballot that:

152 (i) consists of paper or a card where the voter's votes are marked or recorded; and

153 (ii) can be counted using automatic tabulating equipment; and

154 (b) includes punch card ballots, and other ballots that are machine-countable.

155 (5) "Ballot label" means the cards, papers, booklet, pages, or other materials that
156 contain the names of offices and candidates and statements of ballot propositions to be voted
157 on and which are used in conjunction with ballot sheets that do not display that information.

158 (6) "Ballot proposition" means opinion questions specifically authorized by the
159 Legislature, constitutional amendments, initiatives, referenda, and judicial retention questions
160 that are submitted to the voters for their approval or rejection.

161 (7) "Board of canvassers" means the entities established by Sections 20A-4-301 and
162 20A-4-306 to canvass election returns.

163 (8) "Bond election" means an election held for the purpose of approving or rejecting
164 the proposed issuance of bonds by a government entity.

165 (9) "Book voter registration form" means voter registration forms contained in a bound
166 book that are used by election officers and registration agents to register persons to vote.

167 (10) "By-mail voter registration form" means a voter registration form designed to be
168 completed by the voter and mailed to the election officer.

169 (11) "Canvass" means the review of election returns and the official declaration of
170 election results by the board of canvassers.

171 (12) "Canvassing judge" means a poll worker designated to assist in counting ballots at
172 the canvass.

173 (13) "Convention" means the political party convention at which party officers and
174 delegates are selected.

175 (14) "Counting center" means one or more locations selected by the election officer in
176 charge of the election for the automatic counting of ballots.

177 (15) "Counting judge" means a poll worker designated to count the ballots during
178 election day.

179 (16) "Counting poll watcher" means a person selected as provided in Section
180 20A-3-201 to witness the counting of ballots.

181 (17) "Counting room" means a suitable and convenient private place or room,
182 immediately adjoining the place where the election is being held, for use by the counting

183 judges to count ballots during election day.

184 (18) "County executive" has the meaning as provided in Subsection 68-3-12(2).

185 (19) "County legislative body" has the meaning as provided in Subsection 68-3-12(2).

186 (20) "County officers" means those county officers that are required by law to be
187 elected.

188 (21) "Election" means a regular general election, a municipal general election, a
189 statewide special election, a local special election, a regular primary election, a municipal
190 primary election, and a special district election.

191 (22) "Election Assistance Commission" means the commission established by Public
192 Law 107-252, the Help America Vote Act of 2002.

193 (23) "Election cycle" means the period beginning on the first day persons are eligible to
194 file declarations of candidacy and ending when the canvass is completed.

195 (24) "Election judge" means each canvassing judge, counting judge, and receiving
196 judge.

197 (25) "Election officer" means:

198 (a) the lieutenant governor, for all statewide ballots;

199 (b) the county clerk or clerks for all county ballots and for certain ballots and elections
200 as provided in Section 20A-5-400.5;

201 (c) the municipal clerk for all municipal ballots and for certain ballots and elections as
202 provided in Section 20A-5-400.5;

203 (d) the special district clerk or chief executive officer for certain ballots and elections
204 as provided in Section 20A-5-400.5; and

205 (e) the business administrator or superintendent of a school district for certain ballots
206 or elections as provided in Section 20A-5-400.5.

207 (26) "Election official" means any election officer, election judge, poll worker, or
208 satellite registrar.

209 (27) "Election results" means, for bond elections, the count of those votes cast for and
210 against the bond proposition plus any or all of the election returns that the board of canvassers
211 may request.

212 (28) "Election returns" includes the pollbook, all affidavits of registration, the military
213 and overseas absentee voter registration and voting certificates, one of the tally sheets, any

214 unprocessed absentee ballots, all counted ballots, all excess ballots, all unused ballots, all
215 spoiled ballots, the ballot disposition form, and the total votes cast form.

216 (29) "Electronic ballot" means a ballot that is recorded using a direct electronic voting
217 device or other voting device that records and stores ballot information by electronic means.

218 (30) (a) "Electronic voting [system-] device" means a [system in which a voting device
219 is used in conjunction with ballots so that votes recorded by the voter are counted and tabulated
220 by automatic tabulating equipment.] voting device that uses electronic ballots.

221 (b) "Electronic voting device" includes a direct recording electronic voting device.

222 (31) "Inactive voter" means a registered voter who has been sent the notice required by
223 Section 20A-2-306 and who has failed to respond to that notice.

224 (32) "Inspecting poll watcher" means a person selected as provided in this title to
225 witness the receipt and safe deposit of voted and counted ballots.

226 (33) "Judicial office" means the office filled by any judicial officer.

227 (34) "Judicial officer" means any justice or judge of a court of record or any county
228 court judge.

229 (35) "Local election" means a regular municipal election, a local special election, a
230 special district election, and a bond election.

231 (36) "Local political subdivision" means a county, a municipality, a special district, or
232 a local school district.

233 (37) "Local special election" means a special election called by the governing body of a
234 local political subdivision in which all registered voters of the local political subdivision may
235 vote.

236 (38) "Municipal executive" means:

237 (a) the city council or town council in the traditional management arrangement
238 established by Title 10, Chapter 3, Part 1, Governing Body;

239 (b) the mayor in the council-mayor optional form of government defined in Section
240 10-3-101; and

241 (c) the manager in the council-manager optional form of government defined in
242 Section 10-3-101.

243 (39) "Municipal general election" means the election held in municipalities and special
244 districts on the first Tuesday after the first Monday in November of each odd-numbered year

245 for the purposes established in Section 20A-1-202.

246 (40) "Municipal legislative body" means:

247 (a) the city council or town council in the traditional management arrangement
248 established by Title 10, Chapter 3, Part 1, Governing Body;

249 (b) the municipal council in the council-mayor optional form of government defined in
250 Section 10-3-101; and

251 (c) the municipal council in the council-manager optional form of government defined
252 in Section 10-3-101.

253 (41) "Municipal officers" means those municipal officers that are required by law to be
254 elected.

255 (42) "Municipal primary election" means an election held to nominate candidates for
256 municipal office.

257 (43) "Official ballot" means the ballots distributed by the election officer to the poll
258 workers to be given to voters to record their votes.

259 (44) "Official endorsement" means:

260 (a) the information on the ballot that identifies:

261 (i) the ballot as an official ballot;

262 (ii) the date of the election; and

263 (iii) the facsimile signature of the election officer; and

264 (b) the information on the ballot stub that identifies:

265 (i) the poll worker's initials; and

266 (ii) the ballot number.

267 (45) "Official register" means the official record furnished to election officials by the
268 election officer that contains the information required by Section 20A-5-401.

269 (46) "Paper ballot" means a paper that contains:

270 (a) the names of offices and candidates and statements of ballot propositions to be
271 voted on; and

272 (b) spaces for the voter to record his vote for each office and for or against each ballot
273 proposition.

274 (47) "Political party" means an organization of registered voters that has qualified to
275 participate in an election by meeting the requirements of Title 20A, Chapter 8, Political Party

276 Formation and Procedures.

277 (48) (a) "Poll worker" means a person assigned by an election official to assist with an
278 election, voting, or counting votes.

279 (b) "Poll worker" includes election judges.

280 (c) "Poll worker" does not include a watcher.

281 (49) "Pollbook" means a record of the names of voters in the order that they appear to
282 cast votes.

283 (50) "Polling place" means the building where voting is conducted.

284 (51) "Position" means a square, circle, rectangle, or other geometric shape on a ballot
285 in which the voter marks his choice.

286 (52) "Provisional ballot" means a ballot voted provisionally by a person:

287 (a) whose name is not listed on the official register at the polling place;

288 (b) whose legal right to vote is challenged as provided in this title; or

289 (c) whose identity was not sufficiently established by an election judge.

290 (53) "Provisional ballot envelope" means an envelope printed in the form required by
291 Section 20A-6-105 that is used to identify provisional ballots and to provide information to
292 verify a person's legal right to vote.

293 (54) "Primary convention" means the political party conventions at which nominees for
294 the regular primary election are selected.

295 (55) "Protective counter" means a separate counter, which cannot be reset, that is built
296 into a voting machine and records the total number of movements of the operating lever.

297 (56) "Qualify" or "qualified" means to take the oath of office and begin performing the
298 duties of the position for which the person was elected.

299 (57) "Receiving judge" means the poll worker that checks the voter's name in the
300 official register, provides the voter with a ballot, and removes the ballot stub from the ballot
301 after the voter has voted.

302 (58) "Registration days" means the days designated in Section 20A-2-203 when a voter
303 may register to vote with a satellite registrar.

304 (59) "Registration form" means a book voter registration form and a by-mail voter
305 registration form.

306 (60) "Regular ballot" means a ballot that is not a provisional ballot.

307 (61) "Regular general election" means the election held throughout the state on the first
308 Tuesday after the first Monday in November of each even-numbered year for the purposes
309 established in Section 20A-1-201.

310 (62) "Regular primary election" means the election on the fourth Tuesday of June of
311 each even-numbered year, at which candidates of political parties and nonpolitical groups are
312 voted for nomination.

313 (63) "Resident" means a person who resides within a specific voting precinct in Utah.

314 (64) "Sample ballot" means a mock ballot similar in form to the official ballot printed
315 and distributed as provided in Section 20A-5-405.

316 (65) "Satellite registrar" means a person appointed under Section 20A-5-201 to register
317 voters and perform other duties.

318 (66) "Scratch vote" means to mark or punch the straight party ticket and then mark or
319 punch the ballot for one or more candidates who are members of different political parties.

320 (67) "Secrecy envelope" means the envelope given to a voter along with the ballot into
321 which the voter places the ballot after he has voted it in order to preserve the secrecy of the
322 voter's vote.

323 (68) "Special district" means those local government entities created under the
324 authority of Title 17A.

325 (69) "Special district officers" means those special district officers that are required by
326 law to be elected.

327 (70) "Special election" means an election held as authorized by Section 20A-1-204.

328 (71) "Spoiled ballot" means each ballot that:

329 (a) is spoiled by the voter;

330 (b) is unable to be voted because it was spoiled by the printer or a poll worker; or

331 (c) lacks the official endorsement.

332 (72) "Statewide special election" means a special election called by the governor or the
333 Legislature in which all registered voters in Utah may vote.

334 (73) "Stub" means the detachable part of each ballot.

335 (74) "Substitute ballots" means replacement ballots provided by an election officer to
336 the poll workers when the official ballots are lost or stolen.

337 (75) "Ticket" means each list of candidates for each political party or for each group of

338 petitioners.

339 (76) "Transfer case" means the sealed box used to transport voted ballots to the
340 counting center.

341 (77) "Vacancy" means the absence of a person to serve in any position created by
342 statute, whether that absence occurs because of death, disability, disqualification, resignation,
343 or other cause.

344 (78) "Valid voter identification" means:

345 (a) a form of identification that bears the name and photograph of the voter which may
346 include:

347 (i) a currently valid Utah driver license;

348 (ii) a currently valid identification card that is issued by:

349 (A) the state;

350 (B) a local government within the state; or

351 (C) a branch, department, or agency of the United States;

352 (iii) an identification card that is issued by an employer for an employee;

353 (iv) a currently valid identification card that is issued by a college, university, technical
354 school, or professional school that is located within the state;

355 (v) a currently valid Utah permit to carry a concealed weapon;

356 (vi) a currently valid United States passport; or

357 (vii) a valid tribal identification card; or

358 (b) two forms of identification that bear the name of the voter and provide evidence
359 that the voter resides in the voting precinct, which may include:

360 (i) a voter identification card;

361 (ii) a current utility bill or a legible copy thereof;

362 (iii) a bank or other financial account statement, or a legible copy thereof;

363 (iv) a certified birth certificate;

364 (v) a valid Social Security card;

365 (vi) a check issued by the state or the federal government or a legible copy thereof;

366 (vii) a paycheck from the voter's employer, or a legible copy thereof;

367 (viii) a currently valid Utah hunting or fishing license;

368 (ix) a currently valid United States military identification card;

369 (x) certified naturalization documentation;
370 (xi) a currently valid license issued by an authorized agency of the United States;
371 (xii) a certified copy of court records showing the voter's adoption or name change;
372 (xiii) a Bureau of Indian Affairs card;
373 (xiv) a tribal treaty card;
374 (xv) a valid Medicaid card, Medicare card, or Electronic Benefits Transfer Card; or
375 (xvi) a form of identification listed in Subsection [~~(76)~~] (78)(a) that does not contain a
376 photograph, but establishes the name of the voter and provides evidence that the voter resides
377 in the voting precinct.

378 (79) "Valid write-in candidate" means a candidate who has qualified as a write-in
379 candidate by following the procedures and requirements of this title.

380 (80) "Voter" means a person who meets the requirements for voting in an election,
381 meets the requirements of election registration, is registered to vote, and is listed in the official
382 register book.

383 (81) "Voter registration deadline" means the registration deadline provided in Section
384 20A-2-102.5.

385 (82) "Voting area" means the area within six feet of the voting booths, voting
386 machines, and ballot box.

387 (83) "Voting booth" means:

388 (a) the space or compartment within a polling place that is provided for the preparation
389 of ballots, including the voting machine enclosure or curtain; or

390 (b) a voting device that is free standing.

391 (84) "Voting device" means:

392 (a) an apparatus in which ballot sheets are used in connection with a punch device for
393 piercing the ballots by the voter;

394 (b) a device for marking the ballots with ink or another substance;

395 (c) ~~[a]~~ an electronic voting device or other device used to make selections and cast a
396 ballot electronically, or any component thereof;

397 (d) an automated voting system under Section 20A-5-302; or

398 (e) any other method for recording votes on ballots so that the ballot may be tabulated
399 by means of automatic tabulating equipment.

400 (85) "Voting machine" means a machine designed for the sole purpose of recording
401 and tabulating votes cast by voters at an election.

402 (86) "Voting poll watcher" means a person appointed as provided in this title to
403 witness the distribution of ballots and the voting process.

404 (87) "Voting precinct" means the smallest voting unit established as provided by law
405 within which qualified voters vote at one polling place.

406 (88) "Watcher" means a voting poll watcher, a counting poll watcher, an inspecting
407 poll watcher, and a testing watcher.

408 (89) "Western States Presidential Primary" means the election established in Title 20A,
409 Chapter 9, Part 8.

410 (90) "Write-in ballot" means a ballot containing any write-in votes.

411 (91) "Write-in vote" means a vote cast for a person whose name is not printed on the
412 ballot according to the procedures established in this title.

413 Section 4. Section **20A-1-201.5** is amended to read:

414 **20A-1-201.5. Primary election dates.**

415 (1) A regular primary election shall be held throughout the state on the fourth Tuesday
416 of June of each even numbered year as provided in Section 20A-9-403, to nominate persons for
417 national, state, school board, and county offices.

418 (2) A municipal primary election shall be held, if necessary, on the second Tuesday
419 following the first Monday in [~~October~~] September before the regular municipal election to
420 nominate persons for municipal and special district offices.

421 (3) The Western States Presidential Primary election shall be held throughout the state
422 on the first Tuesday in February in the year in which a presidential election will be held.

423 Section 5. Section **20A-3-601** is amended to read:

424 **20A-3-601. Early voting.**

425 (1) A person who is registered to vote may vote before the election date in accordance
426 with this section.

427 (2) (a) The early voting period shall begin on the date that is 14 days before the date of
428 the election.

429 (b) Early voting shall continue through:

430 (i) the Friday before the election if the election date is a Tuesday; or

431 (ii) the date that is two regular business days before the date of the election if the
432 election date is a day other than Tuesday.

433 (c) During the early voting period, the election officer:

434 (i) for ~~H~~→ **local special elections**, ←~~H~~ **municipal primary elections** ~~H~~→, ←~~H~~ and
434a municipal general elections:

435 (A) shall conduct early voting on a minimum of four days during each week of the
436 early voting period; and

437 (B) shall conduct early voting on the last day of the early voting period; and

438 (ii) for all other elections:

439 [(i)] (A) shall conduct early voting on [~~regular business days~~] each weekday; and

440 [(i)] (B) may elect to conduct early voting on Saturdays, Sundays, or holidays.

441 (3) Except as specifically provided in this Part 6, Early Voting, early voting shall be
442 administered according to the requirements of this title.

443 Section 6. Section **20A-3-602** is amended to read:

444 **20A-3-602. Hours for early voting.**

445 (1) The election officer shall determine the times for opening and closing the polls for
446 each day of early voting provided that:

447 (a) voting is open for a minimum of four hours during each [~~early voting day; and~~] day
448 that polls are open during the early voting period; and

449 (b) polls shall close at 5 p.m. on the last [~~early voting~~] day of the early voting period.

450 (2) Every registered voter who arrives at the polls before the time scheduled for closing
451 of the polls shall be allowed to vote.

452 Section 7. Section **20A-3-603** is amended to read:

453 **20A-3-603. Early voting polling places.**

454 (1) The election officer shall designate one or more polling places for early voting,
455 provided that:

456 (a) at least one polling place is open on each day of early voting;

457 (b) each polling place meets the requirements for polling places under Chapter 5,
458 Election Administration;

459 (c) ~~H~~→ [~~for all elections other than municipal primary elections and municipal general~~
460 ~~elections;~~] ←~~H~~ at least 10% of the voting devices at a polling place are accessible for individuals
461 with disabilities in accordance with Public Law 107-252, the Help America Vote Act of 2002;

462 and

463 (d) each polling place is located in a government building or office, unless no
464 government building or office is available.

465 (2) (a) In the event the election officer determines that the number of early voting
466 polling places is insufficient due to the number of registered voters who are voting, the election
467 officer may designate additional polling places during the early voting period.

468 (b) If an additional early voting polling place is designated, the election officer shall, as
469 soon as is reasonably possible, give notice of the dates, times, and location of the additional
470 polling place by:

471 (i) publishing the notice in one issue of a newspaper of general circulation in the
472 county; and

473 (ii) posting the notice at the additional polling place.

474 Section 8. Section **20A-5-301** is amended to read:

475 **20A-5-301. Combined voting precincts -- Municipalities.**

476 (1) (a) The municipal legislative body of a city of the first or second class may combine
477 [~~two~~] up to four regular county voting precincts into one municipal voting precinct for
478 purposes of a municipal election if they designate the location and address of each of those
479 combined voting precincts.

480 (b) The polling place shall be within the combined voting precinct or within 1/2 mile
481 of the boundaries of the voting precinct.

482 (2) (a) The municipal legislative body of a city of the third, fourth, or fifth class or
483 town may combine two or more regular county voting precincts into one municipal voting
484 precinct for purposes of an election if it designates the location and address of that combined
485 voting precinct.

486 (b) If only two precincts are combined, the polling place shall be within the combined
487 precinct or within 1/2 mile of the boundaries of the combined voting precinct.

488 (c) If more than two precincts are combined, the polling place should be as near as
489 practical to the middle of the combined precinct.

490 Section 9. Section **20A-5-302** is amended to read:

491 **20A-5-302. Automated voting system.**

492 (1) (a) Any county or municipal legislative body or special district board may:

493 ~~[(a)]~~ (i) adopt, experiment with, acquire by purchase, lease, or otherwise, or abandon
494 any automated voting system that meets the requirements of this section; and

495 ~~[(b)]~~ (ii) use that system in any election, in all or a part of the voting precincts within
496 its boundaries, or in combination with paper ballots.

497 (b) Nothing in this title shall be construed to require the use of electronic voting
498 devices in ~~H~~→ local special elections, ~~H~~←H municipal primary elections ~~H~~→, ~~H~~←H or municipal
498a general elections.

499 (2) (a) Each automated voting system shall:

500 (i) provide for voting in secrecy, except in the case of voters who have received
501 assistance as authorized by Section 20A-3-108;

502 (ii) permit each voter at any election to:

503 (A) vote for all persons and offices for whom and for which that voter is lawfully
504 entitled to vote;

505 (B) vote for as many persons for an office as that voter is entitled to vote; and

506 (C) vote for or against any ballot proposition upon which that voter is entitled to vote;

507 (iii) permit each voter, at presidential elections, by one mark or punch to vote for the
508 candidates of that party for president, vice president, and for their presidential electors;

509 (iv) permit each voter, at any regular general election, to vote for all the candidates of
510 one registered political party by making one mark or punch;

511 (v) permit each voter to scratch vote;

512 (vi) at elections other than primary elections, permit each voter to vote for the
513 nominees of one or more parties and for independent candidates;

514 (vii) at primary elections:

515 (A) permit each voter to vote for candidates of the political party of his choice; and

516 (B) reject any votes cast for candidates of another party;

517 (viii) prevent the voter from voting for the same person more than once for the same
518 office;

519 (ix) provide the opportunity for each voter to change the ballot and to correct any error
520 before the voter casts the ballot in compliance with the Help America Vote Act of 2002, Pub.
521 L. No. 107-252;

522 (x) include automatic tabulating equipment that rejects choices recorded on a voter's
523 ballot if the number of the voter's recorded choices is greater than the number which the voter

524 is entitled to vote for the office or on the measure;

525 (xi) be of durable construction, suitably designed so that it may be used safely,
526 efficiently, and accurately in the conduct of elections and counting ballots;

527 (xii) when properly operated, record correctly and count accurately each vote cast;

528 (xiii) for voting equipment certified after January 1, 2005, produce a permanent paper
529 record that:

530 (A) shall be available as an official record for any recount or election contest
531 conducted with respect to an election where the voting equipment is used;

532 (B) (I) shall be available for the voter's inspection prior to the voter leaving the polling
533 place; and

534 (II) shall permit the voter to inspect the record of the voter's selections independently
535 only if reasonably practicable commercial methods permitting independent inspection are
536 available at the time of certification of the voting equipment by the lieutenant governor;

537 (C) shall include, at a minimum, human readable printing that shows a record of the
538 voter's selections;

539 (D) may also include machine readable printing which may be the same as the human
540 readable printing; and

541 (E) allows voting poll watchers and counting poll watchers to observe the election
542 process to ensure its integrity; and

543 (xiv) meet the requirements of Section 20A-5-402.5.

544 (b) For the purposes of a recount or an election contest, if the permanent paper record
545 contains a conflict or inconsistency between the human readable printing and the machine
546 readable printing, the human readable printing shall supercede the machine readable printing
547 when determining the intent of the voter.

548 (c) Notwithstanding any other provisions of this section, the election officers shall
549 ensure that the ballots to be counted by means of electronic or electromechanical devices are of
550 a size, layout, texture, and printed in a type of ink or combination of inks that will be suitable
551 for use in the counting devices in which they are intended to be placed.

552 Section 10. Section **20A-5-602** is amended to read:

553 **20A-5-602. Poll workers -- Appointment for local elections.**

554 (1) At least 15 days before the date scheduled for any local election, the municipal

555 legislative body or special district board shall appoint or provide for the appointment of:

556 (a) in jurisdictions using paper ballots:

557 (i) three registered voters, or two registered voters and one person 17 years old who
558 will be 18 years old by the date of the regular municipal election, [~~from their jurisdiction~~] who
559 reside within the county to serve as [~~election judges~~] poll workers for each voting precinct
560 when the ballots will be counted after the polls close; or

561 (ii) three registered voters, or two registered voters and one person 17 years old who
562 will be 18 years old by the date of the regular municipal election, [~~from their jurisdiction~~] who
563 reside within the county to serve as receiving judges in each voting precinct and three
564 registered voters, or two registered voters and one person 17 years old who will be 18 years old
565 by the date of the regular municipal election, [~~from their jurisdiction~~] who reside within the
566 county to serve as counting judges in each voting precinct when ballots will be counted
567 throughout election day;

568 (b) in jurisdictions using automated tabulating equipment, three registered voters, or
569 two registered voters and one person 17 years old who will be 18 years old by the date of the
570 regular municipal election, [~~from their jurisdiction~~] who reside within the county to serve as
571 election judges for each voting precinct;

572 (c) in jurisdictions using voting machines, four registered voters, or three registered
573 voters and one person 17 years old who will be 18 years old by the date of the regular
574 municipal election, [~~from their jurisdiction~~] who reside within the county to serve as [~~election~~
575 ~~judges~~] poll workers for each voting precinct; and

576 (d) in all jurisdictions:

577 (i) at least one registered voter [~~from their jurisdiction~~] who resides within the county
578 to serve as canvassing judge, if necessary; and

579 (ii) as many alternate judges as needed to replace appointed judges who are unable to
580 serve.

581 (2) The municipal legislative body and special district board may not appoint any
582 candidate's parent, sibling, spouse, child, or in-law to serve as [~~an election judge~~] a poll worker
583 in the voting precinct where the candidate resides.

584 (3) The clerk shall:

585 (a) prepare and file a list containing the name, address, voting precinct, and telephone

586 number of each person appointed; and

587 (b) make the list available in the clerk's office for inspection, examination, and copying
588 during business hours.

589 (4) (a) The municipal legislative body and special district board shall compensate
590 ~~[election judges]~~ poll workers for their services.

591 (b) The municipal legislative body and special district board may not compensate their
592 ~~[election judges]~~ poll workers at a rate higher than that paid by the county to its ~~[election~~
593 ~~judges]~~ poll workers.

594 Section 11. Section **20A-9-203** is amended to read:

595 **20A-9-203. Declarations of candidacy -- Municipal general elections.**

596 (1) (a) A person may become a candidate for any municipal office if the person is a
597 registered voter and:

598 (i) the person has resided within the municipality in which that person seeks to hold
599 elective office for the 12 consecutive months immediately before the date of the election; or

600 (ii) if the territory in which the person resides was annexed into the municipality, the
601 person has resided within the annexed territory or the municipality for 12 months.

602 (b) In addition to the requirements of Subsection (1)(a), candidates for a municipal
603 council position under the council-mayor or council-manager alternative forms of municipal
604 government shall, if elected from districts, be residents of the council district from which they
605 are elected.

606 (c) In accordance with Utah Constitution Article IV, Section 6, any mentally
607 incompetent person, any person convicted of a felony, or any person convicted of treason or a
608 crime against the elective franchise may not hold office in this state until the right to hold
609 elective office is restored under Section 20A-2-101.5.

610 (2) (a) Except as provided in Subsection (2)(b) or (2)(c), each person seeking to
611 become a candidate for a municipal office shall:

612 (i) file a declaration of candidacy₂ in person with the city recorder or town clerk₂ during
613 office hours and not later than 5 p.m. between ~~H→ [f] July [f]~~ ~~[June] ←H~~ 15 and
613a ~~H→ [f] August [f]~~ ~~[July] ←H~~ 15 of any
614 odd-numbered year₂ and

615 (ii) pay the filing fee, if one is required by municipal ordinance.

616 (b) (i) As used in this Subsection (2)(b), "registered voters" means the number of

617 persons registered to vote in the municipality on the January 1 of the municipal election year.

618 (ii) A third, fourth, or fifth class city that used the convention system to nominate
 619 candidates in the last municipal election as authorized by Subsection 20A-9-404(3) or used the
 620 process contained in this Subsection (2)(b) in the last municipal election or a town that used the
 621 convention system to nominate candidates in the last municipal election as authorized by
 622 Subsection 20A-9-404(3) or used the process contained in this Subsection (2)(b) in the last
 623 municipal election may, by ordinance, require, in lieu of the convention system, that candidates
 624 for municipal office file a nominating petition signed by a percentage of registered voters at the
 625 same time that the candidate files a declaration of candidacy.

626 (iii) The ordinance shall specify the number of signatures that the candidate must
 627 obtain on the nominating petition in order to become a candidate for municipal office under
 628 this Subsection (2), but that number may not exceed 5% of registered voters.

629 (c) Any resident of a municipality may nominate a candidate for a municipal office by:

630 (i) filing a nomination petition with the city recorder or town clerk during office hours,
 631 but not later than 5 p.m. between ~~H~~→ [f] July [t] ~~June~~ ←~~H~~ 15 and ~~H~~→ [f] August [t]
 631a ~~July~~ ←~~H~~ 15 of any odd-numbered
 632 year; and [pay]

633 (ii) paying the filing fee, if one is required by municipal ordinance.

634 (d) When ~~H~~→ [f] August [t] ~~July~~ ←~~H~~ 15 is a Saturday [or], Sunday, or holiday, the
 634a filing time shall
 635 be extended until 5 p.m. on the following ~~Monday~~ regular business day.

636 (3) (a) Before the filing officer may accept any declaration of candidacy or nomination
 637 petition, the filing officer shall:

638 (i) read to the prospective candidate, or person filing the petition, the constitutional and
 639 statutory qualification requirements for the office that the candidate is seeking; and

640 (ii) require the candidate or person filing the petition to state whether or not the
 641 candidate meets those requirements.

642 (b) If the prospective candidate does not meet the qualification requirements for the
 643 office, the filing officer may not accept the declaration of candidacy or nomination petition.

644 (c) If it appears that the prospective candidate meets the requirements of candidacy, the
 645 filing officer shall:

646 (i) provide the candidate with a copy of the pledge of fair campaign practices described
 647 under Section 20A-9-206 and inform the candidate that:

648 (A) signing the pledge is voluntary; and
649 (B) signed pledges shall be filed with the filing officer; and
650 (ii) accept the declaration of candidacy or nomination petition.
651 (d) If the candidate elects to sign the pledge of fair campaign practices, the filing
652 officer shall:
653 (i) accept the candidate's pledge; and
654 (ii) if the candidate has filed for a partisan office, provide a certified copy of the
655 candidate's pledge to the chair of the county or state political party of which the candidate is a
656 member.
657 (4) The declaration of candidacy shall substantially comply with the following form:
658 "I, (print name) ____, being first sworn, say that I reside at ____ Street, City of ____,
659 County of ____, state of Utah, Zip Code ____, Telephone Number (if any) ____; that I am a
660 registered voter; and that I am a candidate for the office of ____ (stating the term). I request
661 that my name be printed upon the applicable official ballots. (Signed) _____
662 Subscribed and sworn to (or affirmed) before me by ____ on this
663 _____(month\day\year).
664 (Signed) _____ (Clerk or other officer qualified to administer oath)"
665 (5) (a) In all first and second class cities, and in third, fourth, or fifth class cities that
666 have not passed the ordinance authorized by Subsection (2)(b) and in towns that have not
667 passed the ordinance authorized by Subsection (2)(b), any registered voter may be nominated
668 for municipal office by submitting a petition signed by:
669 (i) 25 residents of the municipality who are at least 18 years old; or
670 (ii) 20% of the residents of the municipality who are at least 18 years old.
671 (b) (i) The petition shall substantially conform to the following form:
672 "NOMINATION PETITION
673 The undersigned residents of (name of municipality) being 18 years old or older
674 nominate (name of nominee) to the office of ____ for the (two or four-year term, whichever is
675 applicable)."
676 (ii) The remainder of the petition shall contain lines and columns for the signatures of
677 persons signing the petition and their addresses and telephone numbers.
678 (6) (a) In third, fourth, and fifth class cities that have passed the ordinance authorized

679 by Subsection (2)(b), and in towns that have passed the ordinance authorized by Subsection
680 (2)(b), any registered voter may be nominated for municipal office by submitting a petition
681 signed by the same percentage of registered voters in the municipality as required by the
682 ordinance passed under authority of Subsection (2)(b).

683 (b) (i) The petition shall substantially conform to the following form:

684 "NOMINATION PETITION

685 The undersigned residents of (name of municipality) being 18 years old or older
686 nominate (name of nominee) to the office of (name of office) for the (two or four-year term,
687 whichever is applicable)."

688 (ii) The remainder of the petition shall contain lines and columns for the signatures of
689 persons signing the petition and their addresses and telephone numbers.

690 (7) If the declaration of candidacy or nomination petition fails to state whether the
691 nomination is for the two or four-year term, the clerk shall consider the nomination to be for
692 the four-year term.

693 (8) (a) The clerk shall verify with the county clerk that all candidates are registered
694 voters.

695 (b) Any candidate who is not registered to vote is disqualified and the clerk may not
696 print the candidate's name on the ballot.

697 (9) Immediately after expiration of the period for filing a declaration of candidacy, the
698 clerk shall:

699 (a) cause the names of the candidates as they will appear on the ballot to be published
700 in at least two successive publications of a newspaper with general circulation in the
701 municipality; and

702 (b) notify the lieutenant governor of the names of the candidates as they will appear on
703 the ballot.

704 (10) (a) A declaration of candidacy or nomination petition filed under this section is
705 valid unless a written objection is filed with the clerk within five days after the last day for
706 filing.

707 (b) If an objection is made, the clerk shall:

708 (i) mail or personally deliver notice of the objection to the affected candidate
709 immediately; and

710 (ii) decide any objection within 48 hours after it is filed.
711 (c) If the clerk sustains the objection, the candidate may correct the problem by
712 amending the declaration or petition within three days after the objection is sustained or by
713 filing a new declaration within three days after the objection is sustained.
714 (d) (i) The clerk's decision upon objections to form is final.
715 (ii) The clerk's decision upon substantive matters is reviewable by a district court if
716 prompt application is made to the district court.
717 (iii) The decision of the district court is final unless the Supreme Court, in the exercise
718 of its discretion, agrees to review the lower court decision.
719 (11) Any person who filed a declaration of candidacy and was nominated, and any
720 person who was nominated by a nomination petition, may, any time up to 23 days before the
721 election, withdraw the nomination by filing a written affidavit with the clerk.
722 Section 12. Section **20A-9-404** is amended to read:
723 **20A-9-404. Municipal primary elections.**
724 (1) (a) Except as otherwise provided in this section, candidates for municipal office in
725 all municipalities shall be nominated at a municipal primary election.
726 (b) Municipal primary elections shall be held:
727 (i) consistent with Section 20A-1-201.5, on the second Tuesday following the first
728 Monday in the [~~October~~] September before the regular municipal election; and
729 (ii) whenever possible, at the same polling places as the regular municipal election.
730 (2) If the number of candidates for a particular municipal office does not exceed twice
731 the number of persons needed to fill that office, a primary election for that office may not be
732 held and the candidates are considered nominated.
733 (3) (a) For purposes of this Subsection (3), "convention" means an organized assembly
734 of voters or delegates.
735 (b) (i) By ordinance adopted before the June 1 before a regular municipal election, any
736 third, fourth, or fifth class city or town may exempt itself from a primary election by providing
737 that the nomination of candidates for municipal office to be voted upon at a municipal election
738 be nominated by a political party convention or committee.
739 (ii) Any primary election exemption ordinance adopted under the authority of this
740 subsection remains in effect until repealed by ordinance.

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

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

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

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

751 (ii) The certificate of nomination shall:

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

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

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

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

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

763 (F) contain a statement identifying the residence and post office address of the
764 presiding officer and secretary and certifying that the presiding officer and secretary were
765 officers of the convention or committee and that the certificates are true to the best of their
766 knowledge and belief.

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

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

771 (f) The election ballot shall substantially comply with the form prescribed in Title 20A,

772 Chapter 6, Part 4, Ballot Form Requirements for Municipal Elections, but the party name shall
773 be included with the candidate's name.

774 (4) (a) Any third, fourth, or fifth class city may adopt an ordinance before the [~~July~~
775 June 1 before the regular municipal election that:

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

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

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

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

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

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

789 (C) is substantially similar to the form of the signature sheets described in Section
790 20A-7-303; and

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

792 (c) (i) If the number of candidates for a particular office does not exceed twice the
793 number of offices to be filled at the regular municipal election, no partisan primary election for
794 that office shall be held and the candidates are considered to be nominated.

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

798 (d) The clerk shall ensure that:

799 (i) the partisan municipal primary ballot is similar to the ballot forms required by
800 Sections 20A-6-401 and 20A-6-401.1;

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

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

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

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

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

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

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

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

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

Legislative Review Note
as of 1-23-07 6:34 AM

Office of Legislative Research and General Counsel

H.B. 347 - Municipal Election Law Provisions

Fiscal Note

2007 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals or businesses. Local governments could see some cost savings in the conducting of municipal elections.

1/29/2007, 12:07:30 PM, Lead Analyst: Ricks, G.

Office of the Legislative Fiscal Analyst