

ELECTION LAW AMENDMENTS

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Douglas C. Aagard

Senate Sponsor: Peter C. Knudson

LONG TITLE

General Description:

This bill modifies provisions of the Election Code.

Highlighted Provisions:

This bill:

- ▶ changes the deadline for challenging the nomination of a person in a primary election from ten days after the date of the primary election to ten days after the date of the primary election's canvass;
- ▶ changes the date for the lieutenant governor to certify the ballot titles for constitutional amendments to be consistent with the certification date for the names of judges up for retention election;
- ▶ modifies the deadline for publishing notice of open offices to provide consistency with county notice requirements;
- ▶ changes the date for the lieutenant governor to certify the names of candidates to be consistent with the certification date for the names of judges up for retention election; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None



28 **Utah Code Sections Affected:**

29 AMENDS:

30 **20A-4-403**, as last amended by Chapter 105, Laws of Utah 2005

31 **20A-5-101**, as last amended by Chapter 249, Laws of Utah 2003

32 **20A-7-103**, as last amended by Chapter 127, Laws of Utah 2002

33 **20A-9-701**, as last amended by Chapter 77, Laws of Utah 2003



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

36 Section 1. Section **20A-4-403** is amended to read:

37 **20A-4-403. Election contest -- Petition and response.**

38 (1) (a) In contesting the results of all elections, except for primary elections and bond
39 elections, a registered voter shall contest the right of any person declared elected to any office
40 by filing a verified written complaint with the district court of the county in which he resides
41 within 40 days after the canvass.

42 (b) The complaint shall include:

43 (i) the name of the party contesting the election;

44 (ii) a statement that the party is a registered voter in the jurisdiction in which the
45 election was held;

46 (iii) the name of the person whose right to the office is contested;

47 (iv) the office to which that person was ostensibly elected;

48 (v) one or more of the grounds for an election contest specified in Section 20A-4-402;

49 (vi) the person who was purportedly elected to the office as respondent; and

50 (vii) if the reception of illegal votes or the rejection of legal votes is alleged as a
51 ground for the contest, the name and address of all persons who allegedly cast illegal votes or
52 whose legal vote was rejected.

53 (c) When the reception of illegal votes or the rejection of legal votes is alleged as a
54 cause of contest, it is sufficient to state generally that:

55 (i) illegal votes were given in one or more specified voting precincts to a person whose
56 election is contested, which, if taken from him, would reduce the number of his legal votes
57 below the number of legal votes given to some other person for the same office; or

58 (ii) that legal votes for another person were rejected, which, if counted, would raise the

59 number of legal votes for that person above the number of legal votes cast for the person whose
60 election is contested.

61 (d) (i) The court may not take or receive evidence of any of the votes described in
62 Subsection (1)(c) unless the party contesting the election delivers to the opposite party, at least
63 three days before the trial, a written list of the number of contested votes and by whom the
64 contested votes were given or offered, which he intends to prove at trial.

65 (ii) The court may not take or receive any evidence of contested votes except those that
66 are specified in that list.

67 (2) (a) In contesting the results of a primary election, when contesting the petition
68 nominating an independent candidate, or when challenging any person, election officer,
69 election official, board, or convention for failing to nominate a person, a registered voter shall
70 contest the right of any person declared nominated to any office by filing a verified written
71 complaint within ten days [~~from~~] after the date of the canvass for the primary election, after the
72 date of filing of the petition, or after the date of the convention, respectively, with:

73 (i) the district court of the county in which he resides if he is contesting a nomination
74 made only by voters from that county; or

75 (ii) the Utah Supreme Court, if he is contesting a nomination made by voters in more
76 than one county.

77 (b) The complaint shall include:

78 (i) the name of the party contesting the nomination;

79 (ii) a statement that the contesting party is a registered voter in the jurisdiction in which
80 the election was held;

81 (iii) the name of the person whose right to nomination is contested or the name of the
82 person who failed to have their name placed in nomination;

83 (iv) the office to which that person was nominated or should have been nominated;

84 (v) one or more of the grounds for an election contest specified in Subsection (1);

85 (vi) the person who was purportedly nominated to the office as respondent; and

86 (vii) if the reception of illegal votes or the rejection of legal votes is alleged as a
87 ground for the contest, the name and address of all persons who allegedly cast illegal votes or
88 whose legal vote was rejected.

89 (c) When the reception of illegal votes or the rejection of legal votes is alleged as a

90 cause of contest, it is sufficient to state generally that:

91 (i) illegal votes were given to a person whose election is contested, which, if taken
92 from him, would reduce the number of his legal votes below the number of legal votes given to
93 some other person for the same office; or

94 (ii) legal votes for another person were rejected, which, if counted, would raise the
95 number of legal votes for that person above the number of legal votes cast for the person whose
96 election is contested.

97 (d) (i) The court may not take or receive evidence of any the votes described in
98 Subsection (2)(c), unless the party contesting the election delivers to the opposite party, at least
99 three days before the trial, a written list of the number of contested votes and by whom the
100 contested votes were given or offered, which he intends to prove at trial.

101 (ii) The court may not take or receive any evidence of contested votes except those that
102 are specified in that list.

103 (3) (a) In contesting the results of a bond election, a registered voter shall contest the
104 validity of the declared results by filing a verified written complaint with the district court of
105 the county in which he resides within 40 days after the date of the official finding entered under
106 Section 11-14-207.

107 (b) The complaint shall include:

108 (i) the name of the party contesting the election;

109 (ii) a statement that the party is a registered voter in the jurisdiction in which the
110 election was held;

111 (iii) the bond proposition that is the subject of the contest;

112 (iv) one or more of the grounds for an election contest specified in Section 20A-4-402;
113 and

114 (v) if the reception of illegal votes or the rejection of legal votes is alleged as a ground
115 for the contest, the name and address of all persons who allegedly cast illegal votes or whose
116 legal vote was rejected.

117 (c) When the reception of illegal votes or the rejection of legal votes is alleged as a
118 cause of contest, it is sufficient to state generally that:

119 (i) illegal votes were counted in one or more specified voting precincts which, if taken
120 out of the count, would change the declared result of the vote on the proposition; or

121 (ii) legal votes were rejected in one or more specified voting precincts, which, if
122 counted, would change the declared result of the vote on the proposition.

123 (d) (i) The court may not take or receive evidence of any of the votes described in
124 Subsection (3)(c) unless the party contesting the election delivers to the opposite party, at least
125 three days before the trial, a written list of the number of contested votes and by whom the
126 contested votes were given or offered, which he intends to prove at trial.

127 (ii) The court may not take or receive any evidence of contested votes except those that
128 are specified in that list.

129 (4) The court may not reject any statement of the grounds of contest or dismiss the
130 proceedings because of lack of form, if the grounds of the contest are alleged with such
131 certainty as will advise the defendant of the particular proceeding or cause for which the
132 election is contested.

133 (5) (a) The petitioner shall serve a copy of the petition on the respondent.

134 (b) (i) If the petitioner cannot obtain personal service of the petition on the respondent,
135 the petitioner may serve the respondent by leaving a copy of the petition with the clerk of the
136 court with which the petition was filed.

137 (ii) The clerk shall make diligent inquiry and attempt to inform the respondent that he
138 has five days to answer the complaint.

139 (c) The respondent shall answer the petition within five days after the service.

140 (d) If the reception of illegal votes or the rejection of legal votes is alleged as a ground
141 for the contest, the defendant shall set forth in the answer the name and address of all persons
142 whom the defendant believes were properly or improperly admitted or denied the vote.

143 (e) If the answer contains a counterclaim, the petitioner shall file a reply within ten
144 days after service of the counterclaim.

145 (6) (a) The provisions of this Subsection (6) provide additional requirements that apply
146 to municipal election contests that are in addition to the other requirements of this section
147 governing election contest.

148 (b) Municipal election contests shall be filed, tried, and determined in the district court
149 of the county in which the municipality is located.

150 (c) (i) As a condition precedent to filing a municipal election contest, the petitioner
151 shall file a written affidavit of intention to contest the election with the clerk of the court within

152 seven days after the votes are canvassed.

153 (ii) The affidavit shall include:

154 (A) the petitioner's name;

155 (B) the fact that the petitioner is a qualified voter of the municipality;

156 (C) the respondent's name;

157 (D) the elective office contested;

158 (E) the time of election; and

159 (F) the grounds for the contest.

160 (d) (i) Before the district court takes jurisdiction of a municipal election contest, the
161 petitioner shall file a bond with the clerk of the court with the sureties required by the court.

162 (ii) The bond shall name the respondent as obligee and be conditioned for the payment
163 of all costs incurred by the respondent if the respondent prevails.

164 Section 2. Section **20A-5-101** is amended to read:

165 **20A-5-101. Notice of election.**

166 (1) On or before February 1 in each regular general election year, the lieutenant
167 governor shall prepare and transmit a written notice to each county clerk that:

168 (a) designates the offices to be filled at the regular general election;

169 (b) identifies the dates for filing a declaration of candidacy for those offices; and

170 (c) contains a description of any ballot propositions to be decided by the voters that
171 have qualified for the ballot as of that date.

172 (2) (a) No later than February [~~10~~] 15, each county clerk shall:

173 (i) publish a notice once in a newspaper published in that county; or

174 (ii) (A) cause a copy of the notice to be posted in a conspicuous place most likely to
175 give notice of the election to the voters in each voting precinct within the county; and

176 (B) prepare an affidavit of that posting, showing a copy of the notice and the places
177 where the notice was posted.

178 (b) The notice required by Subsection (2)(a) shall:

179 (i) designate the offices to be voted on in that election in that county, other than special
180 district offices; and

181 (ii) identify the dates for filing a declaration of candidacy for those offices.

182 (3) Before each election, the election officer shall give written or printed notice of:

- 183 (a) the date and place of election;
- 184 (b) the hours during which the polls will be open;
- 185 (c) the polling places for each voting precinct; and
- 186 (d) the qualifications for persons to vote in the election.
- 187 (4) To provide the notice required by Subsection (3), the election officer shall publish
- 188 the notice at least two days before the election in a newspaper of general circulation common to
- 189 the area or in which the election is being held.

190 Section 3. Section **20A-7-103** is amended to read:

191 **20A-7-103. Constitutional amendments and other questions -- Procedures for**

192 **submission to popular vote.**

- 193 (1) The procedures contained in this section govern when:
- 194 (a) the Legislature submits a proposed constitutional amendment or other question to
- 195 the voters; and
- 196 (b) an act of the Legislature is referred to the voters by referendum petition.
- 197 (2) In addition to the publication in the voter information pamphlet required by Section
- 198 20A-7-702, the lieutenant governor shall, not more than 60 days or less than ten days before the
- 199 regular general election, publish the full text of the amendment, question, or statute in at least
- 200 one newspaper in every county of the state where a newspaper is published.
- 201 (3) The legislative general counsel shall:
- 202 (a) entitle each proposed constitutional amendment "Constitutional Amendment
- 203 Number ___" and give it a number;
- 204 (b) entitle each proposed question "State Proposition Number ___" and give it a number;
- 205 (c) entitle each state referendum that has qualified for the ballot "Citizen's State
- 206 Referendum Number ___" and give it a number;
- 207 (d) draft and designate a ballot title that summarizes the subject matter of the
- 208 amendment or question; and
- 209 (e) deliver them to the lieutenant governor.
- 210 (4) The lieutenant governor shall certify the number and ballot title of each amendment
- 211 or question to the county clerk of each county no later than [~~the second Friday after the primary~~
- 212 ~~election~~] September 1 of each regular general election year.
- 213 (5) The county clerk of each county shall:

214 (a) ensure that both the number and title of the amendment, question, or referendum is
215 printed on the sample ballots and official ballots; and

216 (b) publish them as provided by law.

217 Section 4. Section **20A-9-701** is amended to read:

218 **20A-9-701. Certification of party candidates to county clerks.**

219 By September [3] 1 of each regular general election year, the lieutenant governor shall
220 certify to each county clerk the names of each candidate, including candidates for president and
221 vice president, certified by each registered political party as that party's nominees for offices to
222 be voted upon at the regular general election in that county clerk's county.

Legislative Review Note
as of 11-22-06 10:45 AM

Office of Legislative Research and General Counsel

Interim Committee Note
as of 12-18-06 1:02 PM

The Government Operations Interim Committee recommended this bill.