

1 **LOCAL AND SPECIAL SERVICE DISTRICT**

2 **ELECTION AMENDMENTS**

3 2009 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Keith Grover**

6 Senate Sponsor: Margaret Dayton

7

8 **LONG TITLE**

9 **General Description:**

10 This bill allows local districts and special service districts to conduct elections solely
11 by absentee ballot, and appoint certain candidates to the board.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ allows a local district or special service district candidate to be appointed if
- 15 unopposed;
- 16 ▶ defines "district";
- 17 ▶ allows a district to conduct an election solely by absentee ballot;
- 18 ▶ addresses the district's provision of information and ballots to voters within the
- 19 district;
- 20 ▶ provides for the district to obtain signatures from all voters within the district from
- 21 the voter or county clerk; and
- 22 ▶ addresses the procedure for a district to verify each ballot received.

23 **Monies Appropriated in this Bill:**

24 None

25 **Other Special Clauses:**

26 None

27 **Utah Code Sections Affected:**

28 AMENDS:

29 **17B-1-306**, as last amended by Laws of Utah 2008, Chapters 54, 182, and 360

30 ENACTS:

31 **20A-3-302.5**, Utah Code Annotated 1953

32

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

34 Section 1. Section **17B-1-306** is amended to read:

35 **17B-1-306. Local district board -- Election procedures.**

36 (1) Except as provided in Subsection (11), each elected board member shall be
37 selected as provided in this section.

38 (2) (a) Each election of a local district board member shall be held:

39 (i) at the same time as the municipal general election; and

40 (ii) at polling places designated by the clerk of each county in which the local district
41 is located.

42 (b) (i) Subject to Subsections (4)(f) and (g), the number of polling places under
43 Subsection (2)(a)(ii) in an election of board members of an irrigation district shall be one
44 polling place per division of the district, designated by the district board.

45 (ii) Each polling place designated by an irrigation district board under Subsection
46 (2)(b)(i) shall coincide with a polling place designated by the county clerk under Subsection
47 (2)(a)(ii).

48 (3) (a) The clerk of each local district with a board member position to be filled at the
49 next municipal general election shall provide notice of:

50 (i) each elective position of the local district to be filled at the next municipal general
51 election;

52 (ii) the constitutional and statutory qualifications for each position; and

53 (iii) the dates and times for filing a declaration of candidacy.

54 (b) The notice required under Subsection (3)(a) shall be:

55 (i) posted in at least five public places within the local district at least ten days before
56 the first day for filing a declaration of candidacy; or

57 (ii) published in a newspaper of general circulation within the local district at least

58 three but no more than ten days before the first day for filing a declaration of candidacy.

59 (4) (a) To become a candidate for an elective local district board position, the
60 prospective candidate shall file a declaration of candidacy in person with the local district,
61 during office hours and not later than 5 p.m. between July 1 and July 15 of any odd-numbered
62 year.

63 (b) When July 15 is a Saturday, Sunday, or holiday, the filing time shall be extended
64 until 5 p.m. on the following regular business day.

65 (c) (i) Before the filing officer may accept any declaration of candidacy, the filing
66 officer shall:

67 (A) read to the prospective candidate the constitutional and statutory qualification
68 requirements for the office that the candidate is seeking; and

69 (B) require the candidate to state whether or not the candidate meets those
70 requirements.

71 (ii) If the prospective candidate does not meet the qualification requirements for the
72 office, the filing officer may not accept the declaration of candidacy.

73 (iii) If it appears that the prospective candidate meets the requirements of candidacy,
74 the filing officer shall accept the declaration of candidacy.

75 (d) The declaration of candidacy shall substantially comply with the following form:

76 "I, (print name) _____, being first duly sworn, say that I reside at (Street)
77 _____, City of _____, County of _____, State of Utah,
78 (Zip Code) _____, (Telephone Number, if any) _____; that I meet the qualifications
79 for the office of board of trustees member for _____ (state the name of
80 the local district); that I am a candidate for that office to be voted upon at the next election,
81 and I hereby request that my name be printed upon the official ballot for that election.

82 (Signed) _____

83 Subscribed and sworn to (or affirmed) before me by _____ on this _____
84 day of _____, ____.

85 (Signed) _____

86 (Clerk or Notary Public)"

87 (e) Each person wishing to become a valid write-in candidate for an elective local
88 district board position is governed by Section 20A-9-601.

89 (f) If at least one person does not file a declaration of candidacy as required by this
90 section, a person shall be appointed to fill that board position by following the procedures and
91 requirements for appointment established in Section 20A-1-512.

92 (g) If only one candidate files a declaration of candidacy [~~for a position on the board~~
93 ~~of an irrigation district]~~ and there is no write-in candidate who complies with Section
94 20A-9-601, the board need not hold an election for that position and may appoint [~~that~~] the
95 candidate to the board.

96 (5) (a) A primary election may be held if:

97 (i) the election is authorized by the local district board; and

98 (ii) the number of candidates for a particular local board position or office exceeds
99 twice the number of persons needed to fill that position or office.

100 (b) The primary election shall be conducted:

101 (i) on the same date as the municipal primary election, as provided for in Section
102 20A-1-201.5; and

103 (ii) according to the procedures for municipal primary elections provided under Title
104 20A, Election Code.

105 (6) (a) Except as provided in Subsection (6)(c), the local district clerk shall certify the
106 candidate names to the clerk of each county in which the local district is located no later than
107 August 20 of the municipal election year.

108 (b) (i) Except as provided in Subsection (6)(c), the clerk of each county in which the
109 local district is located shall coordinate the placement of the name of each candidate for local
110 district office in the nonpartisan section of the municipal general election ballot with the
111 municipal election clerk.

112 (ii) If consolidation of the local district election ballot with the municipal general
113 election ballot is not feasible, the county clerk shall provide for a separate local district

114 election ballot to be administered by separate election judges at polling locations designated
115 by the county clerk in consultation with the local district.

116 (c) (i) Subsections (6)(a) and (b) do not apply to an election of a member of the board
117 of an irrigation district established under Chapter 2a, Part 5, Irrigation District Act.

118 (ii) (A) Subject to Subsection (6)(c)(ii)(B), the board of each irrigation district shall
119 prescribe the form of the ballot for each board member election.

120 (B) Each ballot for an election of an irrigation district board member shall be in a
121 nonpartisan format.

122 (7) (a) Each voter at an election for a board of trustees member of a local district shall:

123 (i) be a registered voter within the district, except for an election of:

124 (A) an irrigation district board of trustees member; or

125 (B) a basic local district board of trustees member who is elected by property owners;

126 and

127 (ii) meet the requirements to vote established by the district.

128 (b) Each voter may vote for as many candidates as there are offices to be filled.

129 (c) The candidates who receive the highest number of votes are elected.

130 (8) Except as otherwise provided by this section, the election of local district board
131 members is governed by Title 20A, Election Code.

132 (9) (a) A person elected to serve on a local district board shall serve a four-year term,
133 beginning at noon on the January 1 after the person's election.

134 (b) A person elected shall be sworn in as soon as practical after January 1.

135 (10) (a) Except as provided in Subsection (10)(b), each local district shall reimburse
136 the county holding an election under this section for the costs of the election attributable to
137 that local district.

138 (b) Each irrigation district shall bear its own costs of each election it holds under this
139 section.

140 (11) This section does not apply to an improvement district that provides electric or
141 gas service.

142 (12) The provisions of Title 20A, Chapter 3, Part 3, Early Voting, do not apply to an
143 election under this section.

144 Section 2. Section **20A-3-302.5** is enacted to read:

145 **20A-3-302.5. Absentee voting -- No polling place in elections for certain districts.**

146 (1) As used in this section, "district" means a:

147 (a) local district, as defined in Section 17B-1-102; or

148 (b) special service district, as defined in Section 17D-1-102.

149 (2) Notwithstanding Sections 17B-1-306 and 17D-1-303, at least 60 days before the
150 day of an election, a district may elect to administer an election entirely by absentee ballot.

151 (3) If a district decides to administer an election entirely by absentee ballot, the district
152 shall mail to each registered voter within the district:

153 (a) an absentee ballot;

154 (b) a statement that there will be no polling place for the election;

155 (c) instructions for returning the ballot that include an express notice about any
156 relevant deadlines that the voter must meet in order for the voter's vote to be counted; and

157 (d) a warning, on a separate page of colored paper in bold face print, indicating that if
158 the voter fails to follow the instructions included with the absentee ballot, the voter will be
159 unable to vote in that election because there will be no polling place on the day of the election.

160 (4) Any voter who votes by absentee ballot under this section is not required to apply
161 for an absentee ballot as required by this part.

162 (5) (a) A district that administers an election entirely by absentee ballot shall:

163 (i) (A) obtain, in person, the signatures of each voter within the district before the
164 election; and

165 (B) maintain the signatures on file in the district's office; or

166 (ii) obtain the signatures of each voter within the district from the county clerk.

167 (b) (i) Upon receiving the returned absentee ballots, the district shall compare the
168 signature on each absentee ballot with the voter's signature that is maintained on file and
169 verify that the signatures are the same.

170 (ii) If the district questions the authenticity of the signature on the absentee ballot, the
171 district shall immediately contact the voter to verify the signature.

172 (iii) If the voter does not confirm the voter's signature on the absentee ballot, the
173 district shall:

174 (A) immediately send another absentee ballot and other voting materials as required by
175 this section to the voter; and

176 (B) disqualify the initial absentee ballot.