

1 **PROVISIONAL BALLOT AMENDMENTS FOR**
2 **UNREGISTERED VOTERS**

3 2010 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Rebecca Chavez-Houck**

6 Senate Sponsor: _____

8 **LONG TITLE**

9 **General Description:**

10 This bill modifies the Election Code to require a county clerk to count a provisional
11 ballot of an unregistered voter under certain circumstances.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ amends the definition of "legally entitled to vote" to include a voter who is eligible
15 to be registered to vote in the state;
- 16 ▶ requires a county clerk to count a provisional ballot of a person who is not
17 registered to vote but who is eligible to register to vote in this state; and
- 18 ▶ makes technical changes.

19 **Monies Appropriated in this Bill:**

20 None

21 **Other Special Clauses:**

22 None

23 **Utah Code Sections Affected:**

24 AMENDS:

25 **20A-2-102.5**, as last amended by Laws of Utah 2008, Chapter 225

26 **20A-2-201**, as last amended by Laws of Utah 2008, Chapters 225 and 276

27 **20A-4-107**, as last amended by Laws of Utah 2009, Chapters 45 and 202



28 **20A-6-105**, as last amended by Laws of Utah 2007, Chapter 285



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

31 Section 1. Section **20A-2-102.5** is amended to read:

32 **20A-2-102.5. Voter registration deadline.**

33 (1) Except as provided in Section 20A-2-201, Section 20A-4-107, and in Title 20A,
34 Chapter 3, Part 4, Voting by Members of the Military and by Other Persons Living or Serving
35 Abroad, a person who fails to submit a correctly completed voter registration form on or before
36 the voter registration deadline [~~shall not be permitted to~~] may not vote in the election.

37 (2) The voter registration deadline [~~shall be~~] is the date that is 30 calendar days before
38 the date of the election.

39 Section 2. Section **20A-2-201** is amended to read:

40 **20A-2-201. Registering to vote at office of county clerk.**

41 (1) Except as provided in Subsection (3), the county clerk shall register to vote all
42 persons who present themselves for registration at the county clerk's office during designated
43 office hours if those persons, on the date of the election, will be legally eligible to vote in a
44 voting precinct in the county in accordance with Section 20A-2-101.

45 (2) If a registration form is submitted in person at the office of the county clerk during
46 the period beginning on the date after the voter registration deadline and ending on the date that
47 is 15 calendar days before the date of the election, the county clerk shall:

48 (a) accept registration forms from all persons who present themselves for registration at
49 the clerk's office during designated office hours if those persons, on the date of the election,
50 will be legally qualified and entitled to vote in a voting precinct in the county; and

51 (b) inform them that:

52 (i) they will be registered to vote in the pending election; and

53 (ii) for the pending election, they must vote on the day of the election and will not be
54 eligible to vote using early voting under Chapter 3, Part 6, Early Voting, because they
55 registered too late.

56 (3) If a registration form is submitted to the county clerk on the date of the election or
57 during the 14 calendar days before an election, the county clerk shall:

58 (a) accept registration forms from all persons who present themselves for registration at

59 the clerk's office during designated office hours if those persons, on the date of the election,
60 will be legally qualified and entitled to vote in a voting precinct in the county; and

61 (b) inform them that they will be registered to vote but [~~may not vote~~] will have to vote
62 using a provisional ballot in the pending election because they registered too late.

63 Section 3. Section **20A-4-107** is amended to read:

64 **20A-4-107. Review and disposition of provisional ballot envelopes.**

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

66 (a) the voter:

67 (i) is registered to vote in the state or is eligible to register to vote in the state;

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

69 (iii) provided valid voter identification to the poll worker [~~as~~] if indicated by a notation
70 in the official register;

71 (b) the voter:

72 (i) is registered to vote in the state or is eligible to register to vote in the state;

73 (ii) (A) provided valid voter identification to the poll worker [~~as~~] if indicated by a
74 notation in the official register; or

75 (B) (I) either failed to provide valid voter identification or the documents provided as
76 valid voter identification were inadequate [~~and~~];

77 (II) the poll worker recorded [~~that fact~~] the results of Subsection (1)(b)(ii)(B)(I) in the
78 official register [~~but~~]; and

79 (III) the county clerk verifies the voter's identity and residence through some other
80 means; and

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

83 (c) the voter:

84 (i) is registered to vote in the state or is eligible to register to vote in the state;

85 (ii) either failed to provide valid voter identification or the documents provided as
86 valid voter identification were inadequate and the poll worker recorded that fact in the official
87 register; and

88 (iii) (A) the county clerk verifies the voter's identity and residence through some other
89 means as reliable as photo identification; or

90 (B) the voter provides valid voter identification to the county clerk within five business
91 days after the date of the election.

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

96 (b) If the election officer determines that the person [~~is not a registered voter or~~] is not
97 legally entitled to vote the ballot that the voter voted, the election officer shall retain the ballot
98 envelope, unopened, for the period specified in Section 20A-4-202 unless ordered by a court to
99 produce or count it.

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

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

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

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

111 (a) consider the provisional ballot envelope a voter registration form; and

112 (b) register the voter.

113 Section 4. Section **20A-6-105** is amended to read:

114 **20A-6-105. Provisional ballot envelopes.**

115 (1) [~~Each~~] An election officer shall ensure that provisional ballot envelopes are printed
116 in substantially the following form:

117 "AFFIRMATION

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

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

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

121 form.

122 Name of Voter _____

123 First Middle Last

124 Driver License or Identification Card Number _____

125 State of Issuance of Driver License or Identification Card Number _____

126 Date of Birth _____

127 Street Address of Principal Place of Residence

128 _____

129 City County State Zip Code

130 Telephone Number (optional) _____

131 Last four digits of Social Security Number _____

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

133 _____

134 City County State Zip Code

135 Voting Precinct (if known)

136 _____

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

138 affirm:

139 That I am currently [~~registered~~] eligible to register to vote or registered to vote in the
140 state of Utah and am eligible to vote in this election; that I have not voted in this election in any
141 other precinct; that I am eligible to vote in this precinct; and that I request that I be permitted to
142 vote in this precinct; and

143 Subject to penalty of law for false statements, that the information contained in this
144 form is true, and that I am a citizen of the United States and a resident of Utah, residing at the
145 above address; and that I am at least 18 years old and have resided in Utah for the 30 days
146 immediately before this election.

147 Signed _____

148 Dated _____

149 In accordance with Section 20A-3-506, wilfully providing false information above is a
150 class B misdemeanor under Utah law and is punishable by imprisonment and by fine".

151 "CITIZENSHIP AFFIDAVIT

- 152 Name:
- 153 Name at birth, if different:
- 154 Place of birth:
- 155 Date of birth:
- 156 Date and place of naturalization (if applicable):

157 I hereby swear and affirm, under penalties for voting fraud set forth below, that I am a
 158 citizen and that to the best of my knowledge and belief the information above is true and
 159 correct.

160 _____
 161 Signature of Applicant

162 In accordance with Section 20A-2-401, the penalty for willfully causing, procuring, or
 163 allowing yourself to be registered to vote if you know you are not entitled to register to vote is
 164 up to one year in jail and a fine of up to \$2,500."

- 165 (2) The provisional ballot envelope shall include:
- 166 (a) a unique number;
- 167 (b) a detachable part that includes the unique number; and
- 168 (c) a telephone number, internet address, or other indicator of a means, in accordance
 169 with Section 20A-6-105.5, where the voter can find out if the provisional ballot was counted.

Legislative Review Note
 as of **1-22-10 4:45 PM**

Office of Legislative Research and General Counsel