

LOCAL ELECTION AMENDMENTS

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Peter C. Knudson

House Sponsor: Douglas Sagers

LONG TITLE

Committee Note:

The Government Operations and Political Subdivisions Interim Committee recommended this bill.

General Description:

This bill amends local election provisions and midterm vacancy provisions for municipalities, local districts, and special service districts.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ amends local district elections provisions;
- ▶ amends midterm vacancy provisions for a special service district;
- ▶ in certain circumstances, authorizes a municipal legislative body or a local district board to cancel a local election if a candidate is unopposed;
- ▶ requires a municipal legislative body or a local district board to give notice of a cancelled local election;
- ▶ amends midterm vacancy provisions for a local district board;
- ▶ amends write-in candidate provisions for towns; and
- ▶ makes technical corrections.

Money Appropriated in this Bill:

None



28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **10-3-1303**, as last amended by Laws of Utah 2010, Chapter 279

33 **17B-1-306**, as last amended by Laws of Utah 2010, Chapter 197

34 **17B-1-1001**, as last amended by Laws of Utah 2010, Chapter 159

35 **17D-1-106**, as last amended by Laws of Utah 2009, Chapters 181 and 356

36 **20A-1-102**, as last amended by Laws of Utah 2010, Chapters 129, 197, and 254

37 **20A-1-202**, as last amended by Laws of Utah 2007, Chapter 329

38 **20A-1-512**, as last amended by Laws of Utah 2007, Chapter 329

39 **20A-9-601**, as last amended by Laws of Utah 2009, Chapter 202

40 ENACTS:

41 **20A-1-206**, Utah Code Annotated 1953



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

44 Section 1. Section **10-3-1303** is amended to read:

45 **10-3-1303. Definitions.**

46 As used in this part:

47 (1) "Appointed officer" means any person appointed to any statutory office or position
48 or any other person appointed to any position of employment with a city or with a community
49 development and renewal agency under Title 17C, Limited Purpose Local Government Entities
50 - Community Development and Renewal Agencies Act. Appointed officers include, but are
51 not limited to, persons serving on special, regular, or full-time committees, agencies, or boards
52 whether or not such persons are compensated for their services. The use of the word "officer"
53 in this part is not intended to make appointed persons or employees "officers" of the
54 municipality.

55 (2) "Assist" means to act, or offer or agree to act, in such a way as to help, represent,
56 aid, advise, furnish information to, or otherwise provide assistance to a person or business
57 entity, believing that such action is of help, aid, advice, or assistance to such person or business
58 entity and with the intent to assist such person or business entity.

59 (3) "Business entity" means a sole proprietorship, partnership, association, joint
60 venture, corporation, firm, trust, foundation, or other organization or entity used in carrying on
61 a business.

62 (4) "Compensation" means anything of economic value, however designated, which is
63 paid, loaned, granted, given, donated, or transferred to any person or business entity by anyone
64 other than the governmental employer for or in consideration of personal services, materials,
65 property, or any other thing whatsoever.

66 (5) "Elected officer" means ~~any~~ a person:

67 (a) elected or appointed to the office of mayor, commissioner, or council member[-]; or

68 (b) who is considered to be elected to the office of mayor, commissioner, or council
69 member by a municipal legislative body in accordance with Section 20A-1-206.

70 (6) "Improper disclosure" means disclosure of private, controlled, or protected
71 information to any person who does not have both the right and the need to receive the
72 information.

73 (7) "Municipal employee" means a person who is not an elected or appointed officer
74 who is employed on a full or part-time basis by a municipality or by a community development
75 and renewal agency under Title 17C, Limited Purpose Local Government Entities - Community
76 Development and Renewal Agencies Act.

77 (8) "Private, controlled, or protected information" means information classified as
78 private, controlled, or protected under Title 63G, Chapter 2, Government Records Access and
79 Management Act or other applicable provision of law.

80 (9) "Substantial interest" means the ownership, either legally or equitably, by an
81 individual, the individual's spouse, or the individual's minor children, of at least 10% of the
82 outstanding shares of a corporation or 10% interest in any other business entity.

83 Section 2. Section **17B-1-306** is amended to read:

84 **17B-1-306. Local district board -- Election procedures.**

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

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

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

89 (ii) at polling places designated by the county clerk in consultation with the local

90 district for each county in which the local district is located, which polling places shall coincide
91 with municipal general election polling places whenever feasible.

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

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

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

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

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

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

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

105 (i) posted in at least five public places within the local district at least 10 days before
106 the first day for filing a declaration of candidacy; or

107 (ii) (A) published in a newspaper of general circulation within the local district at least
108 three but no more than 10 days before the first day for filing a declaration of candidacy; and

109 (B) published, in accordance with Section 45-1-101, for 10 days before the first day for
110 filing a declaration of candidacy.

111 (4) (a) To become a candidate for an elective local district board position, the
112 prospective candidate shall file a declaration of candidacy in person with the local district,
113 during office hours and not later than the close of normal office hours between July 1 and July
114 15 of any odd-numbered year.

115 (b) When July 15 is a Saturday, Sunday, or holiday, the filing time shall be extended
116 until the close of normal office hours on the following regular business day.

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

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

121 (B) require the candidate to state whether or not the candidate meets those
122 requirements.

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

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

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

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

134 (Signed) _____

135 Subscribed and sworn to (or affirmed) before me by _____ on this _____ day
136 of _____, _____.

137 (Signed) _____
138 (Clerk or Notary Public)"

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

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

144 (g) If only one candidate files a declaration of candidacy and there is no write-in
145 candidate who complies with Section 20A-9-601, the board [~~need not hold an election for that~~
146 ~~position and may appoint the candidate to the board.~~], in accordance with Section 20A-1-206,
147 may:

148 (i) consider the candidate to be elected to the position; and

149 (ii) cancel the election.

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

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

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

154 (b) The primary election shall be conducted:

155 (i) on the same date as the municipal primary election, as provided for in Section
156 20A-1-201.5; and

157 (ii) according to the procedures for municipal primary elections provided under Title
158 20A, Election Code.

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

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

166 (ii) If consolidation of the local district election ballot with the municipal general
167 election ballot is not feasible, the county clerk shall provide for a separate local district election
168 ballot to be administered by poll workers at polling locations designated under Subsection (2).

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

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

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

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

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

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

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

179 and

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

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

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

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

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

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

188 (10) (a) Except as provided in Subsection (10)(b), each local district shall reimburse
189 the county or municipality holding an election under this section for the costs of the election
190 attributable to that local district.

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

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

195 (12) The provisions of Title 20A, Chapter 3, Part 6, Early Voting, do not apply to an
196 election under this section.

197 Section 3. Section **17B-1-1001** is amended to read:

198 **17B-1-1001. Provisions applicable to property tax levy.**

199 (1) Each local district that levies and collects property taxes shall levy and collect them
200 according to the provisions of Title 59, Chapter 2, Property Tax Act.

201 (2) As used in this section, "elected official" means a local district board of trustees
202 member who:

203 (a) is elected to the board of trustees by local district voters at an election held for that
204 purpose, including a member elected under Subsection (4);

205 (b) holds, at the time of appointment to the board of trustees, an elected position with a
206 municipality, county, or another local district that is partially or completely included within the
207 boundaries of the local district; [~~or~~]

208 (c) is appointed in accordance with Subsection 17B-1-303(5) or 17B-1-306(4)(f) [~~or~~
209 ~~(g)~~]; or

210 (d) is considered to be elected in accordance with Subsection 17B-1-306(4)(g).

211 (3) (a) Except as provided in Subsection (3)(b), a local district may not levy or collect
212 property tax revenue that exceeds the certified tax rate during a taxable year that begins on or
213 after January 1, 2011.

214 (b) Notwithstanding Subsection (3)(a), a local district may levy or collect property tax
215 revenue that exceeds the certified tax rate during a taxable year that begins on or after January
216 1, 2011, if:

217 (i) and to the extent that the revenue from the property tax was pledged before January
218 1, 2011, to pay for bonds or other obligations of the local district;

219 (ii) the members of the board of trustees are all elected officials;

220 (iii) the majority of the board of trustees are elected officials; or

221 (iv) the proposed tax or increase in the property tax rate has been approved by:

222 (A) a majority of the registered voters within the local district at an election held for
223 that purpose;

224 (B) the legislative body of the appointing authority; or

225 (C) the legislative body of:

226 (I) a majority of the municipalities partially or completely included within the
227 boundary of the specified local district; or

228 (II) the county in which the specified local district is located, if the county has some or
229 all of its unincorporated area included within the boundary of the specified local district.

230 (4) (a) Notwithstanding provisions to the contrary in Title 17B, Chapter 2a, Provisions
231 Applicable to Different Types of Local Districts, and for purposes of Subsection (3)(b),
232 members of the board of trustees of a local district shall be elected, if, subject to Subsection
233 (4)(b):

234 (i) two-thirds of all members of the board of trustees of the local district vote in favor
235 of changing to an elected board; and

236 (ii) the legislative body of each municipality or county that appoints a member to the
237 board of trustees adopts a resolution approving the change to an elected board.

238 (b) A change to an elected board of trustees under Subsection (4)(a) may not shorten
239 the term of any member of the board of trustees serving at the time of the change.

240 (5) Subsections (2), (3), and (4) do not apply to:

241 (a) Title 17B, Chapter 2a, Part 6, Metropolitan Water District Act;

242 (b) Title 17B, Chapter 2a, Part 10, Water Conservancy District Act; or

243 (c) a local district in which:

244 (i) the board of trustees consists solely of:

245 (A) land owners or the land owners' agents; or
 246 (B) as described in Subsection 17B-1-302(1)(c), land owners or the land owners' agents
 247 or officers; and

248 (ii) there are no residents within the local district at the time a property tax is levied.

249 Section 4. Section **17D-1-106** is amended to read:

250 **17D-1-106. Special service districts subject to other provisions.**

251 (1) A special service district is, to the same extent as if it were a local district, subject
 252 to and governed by:

253 (a) Sections 17B-1-105, 17B-1-107, 17B-1-108, 17B-1-109, 17B-1-110, 17B-1-111,
 254 17B-1-112, 17B-1-113, 17B-1-116, and 17B-1-118;

255 (b) Sections 17B-1-304, 17B-1-305, 17B-1-306, 17B-1-307, 17B-1-310, 17B-1-312,
 256 and 17B-1-313;

257 (c) Section 20A-1-512;

258 [~~(e)~~] (d) Title 17B, Chapter 1, Part 6, Fiscal Procedures for Local Districts;

259 [~~(d)~~] (e) Title 17B, Chapter 1, Part 7, Local District Budgets and Audit Reports;

260 [~~(e)~~] (f) Title 17B, Chapter 1, Part 8, Local District Personnel Management; and

261 [~~(f)~~] (g) Title 17B, Chapter 1, Part 9, Collection of Service Fees and Charges.

262 (2) For purposes of applying the provisions listed in Subsection (1) to a special service
 263 district, each reference in those provisions to the local district board of trustees means the
 264 governing body.

265 Section 5. Section **20A-1-102** is amended to read:

266 **20A-1-102. Definitions.**

267 As used in this title:

268 (1) "Active voter" means a registered voter who has not been classified as an inactive
 269 voter by the county clerk.

270 (2) "Automatic tabulating equipment" means apparatus that automatically examines
 271 and counts votes recorded on paper ballots or ballot sheets and tabulates the results.

272 (3) (a) "Ballot" means the storage medium, whether paper, mechanical, or electronic,
 273 upon which a voter records the voter's votes.

274 (b) "Ballot" includes ballot sheets, paper ballots, electronic ballots, and secrecy
 275 envelopes.

- 276 (4) "Ballot sheet":
- 277 (a) means a ballot that:
- 278 (i) consists of paper or a card where the voter's votes are marked or recorded; and
- 279 (ii) can be counted using automatic tabulating equipment; and
- 280 (b) includes punch card ballots and other ballots that are machine-countable.
- 281 (5) "Ballot label" means the cards, papers, booklet, pages, or other materials that:
- 282 (a) contain the names of offices and candidates and statements of ballot propositions to
- 283 be voted on; and
- 284 (b) are used in conjunction with ballot sheets that do not display that information.
- 285 (6) "Ballot proposition" means a question, issue, or proposal that is submitted to voters
- 286 on the ballot for their approval or rejection including:
- 287 (a) an opinion question specifically authorized by the Legislature;
- 288 (b) a constitutional amendment;
- 289 (c) an initiative;
- 290 (d) a referendum;
- 291 (e) a bond proposition;
- 292 (f) a judicial retention question; or
- 293 (g) any other ballot question specifically authorized by the Legislature.
- 294 (7) "Board of canvassers" means the entities established by Sections 20A-4-301 and
- 295 20A-4-306 to canvass election returns.
- 296 (8) "Bond election" means an election held for the purpose of approving or rejecting
- 297 the proposed issuance of bonds by a government entity.
- 298 (9) "Book voter registration form" means voter registration forms contained in a bound
- 299 book that are used by election officers and registration agents to register persons to vote.
- 300 (10) "By-mail voter registration form" means a voter registration form designed to be
- 301 completed by the voter and mailed to the election officer.
- 302 (11) "Canvass" means the review of election returns and the official declaration of
- 303 election results by the board of canvassers.
- 304 (12) "Canvassing judge" means a poll worker designated to assist in counting ballots at
- 305 the canvass.
- 306 (13) "Convention" means the political party convention at which party officers and

307 delegates are selected.

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

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

312 (16) "Counting poll watcher" means a person selected as provided in Section
313 20A-3-201 to witness the counting of ballots.

314 (17) "Counting room" means a suitable and convenient private place or room,
315 immediately adjoining the place where the election is being held, for use by the poll workers
316 and counting judges to count ballots during election day.

317 (18) "County officers" means those county officers that are required by law to be
318 elected.

319 (19) "Date of the election" or "election day" or "day of the election":

320 (a) means the day that is specified in the calendar year as the day that the election
321 occurs; and

322 (b) does not include:

323 (i) deadlines established for absentee voting; or

324 (ii) any early voting or early voting period as provided under Chapter 3, Part 6, Early
325 Voting.

326 (20) "Elected official" means:

327 (a) a person elected to an office under Section 20A-1-303;

328 (b) a person who is considered to be elected to a municipal office in accordance with
329 Subsection 20A-1-206(1)(c)(ii); or

330 (c) a person who is considered to be elected to a local district office in accordance with
331 Subsection 20A-1-206(3)(c)(ii).

332 [~~(20)~~] (21) "Election" means a regular general election, a municipal general election, a
333 statewide special election, a local special election, a regular primary election, a municipal
334 primary election, and a local district election.

335 [~~(21)~~] (22) "Election Assistance Commission" means the commission established by
336 Public Law 107-252, the Help America Vote Act of 2002.

337 [~~(22)~~] (23) "Election cycle" means the period beginning on the first day persons are

338 eligible to file declarations of candidacy and ending when the canvass is completed.

339 ~~[(23)]~~ (24) "Election judge" means a poll worker that is assigned to:

340 (a) preside over other poll workers at a polling place;

341 (b) act as the presiding election judge; or

342 (c) serve as a canvassing judge, counting judge, or receiving judge.

343 ~~[(24)]~~ (25) "Election officer" means:

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

345 (b) the county clerk or clerks for all county ballots and for certain ballots and elections

346 as provided in Section 20A-5-400.5;

347 (c) the municipal clerk for all municipal ballots and for certain ballots and elections as

348 provided in Section 20A-5-400.5;

349 (d) the local district clerk or chief executive officer for certain ballots and elections as

350 provided in Section 20A-5-400.5; and

351 (e) the business administrator or superintendent of a school district for certain ballots

352 or elections as provided in Section 20A-5-400.5.

353 ~~[(25)]~~ (26) "Election official" means any election officer, election judge, or poll

354 worker.

355 ~~[(26)]~~ (27) "Election results" means, for bond elections, the count of those votes cast

356 for and against the bond proposition plus any or all of the election returns that the board of

357 canvassers may request.

358 ~~[(27)]~~ (28) "Election returns" includes the pollbook, all affidavits of registration, the

359 military and overseas absentee voter registration and voting certificates, one of the tally sheets,

360 any unprocessed absentee ballots, all counted ballots, all excess ballots, all unused ballots, all

361 spoiled ballots, the ballot disposition form, and the total votes cast form.

362 ~~[(28)]~~ (29) "Electronic ballot" means a ballot that is recorded using a direct electronic

363 voting device or other voting device that records and stores ballot information by electronic

364 means.

365 ~~[(29)]~~ (30) (a) "Electronic voting device" means a voting device that uses electronic

366 ballots.

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

368 ~~[(30)]~~ (31) "Inactive voter" means a registered voter who has:

369 (a) been sent the notice required by Section 20A-2-306; and

370 (b) failed to respond to that notice.

371 [~~31~~] (32) "Inspecting poll watcher" means a person selected as provided in this title to
372 witness the receipt and safe deposit of voted and counted ballots.

373 [~~32~~] (33) "Judicial office" means the office filled by any judicial officer.

374 [~~33~~] (34) "Judicial officer" means any justice or judge of a court of record or any
375 county court judge.

376 [~~34~~] (35) "Local district" means a local government entity under Title 17B, Limited
377 Purpose Local Government Entities - Local Districts, and includes a special service district
378 under Title 17D, Chapter 1, Special Service District Act.

379 [~~35~~] (36) "Local district officers" means those local district officers that are required
380 by law to be elected.

381 [~~36~~] (37) "Local election" means a regular municipal election, a local special
382 election, a local district election, and a bond election.

383 [~~37~~] (38) "Local political subdivision" means a county, a municipality, a local
384 district, or a local school district.

385 [~~38~~] (39) "Local special election" means a special election called by the governing
386 body of a local political subdivision in which all registered voters of the local political
387 subdivision may vote.

388 [~~39~~] (40) "Municipal executive" means:

389 (a) the mayor in the council-mayor form of government defined in Section 10-3b-102;
390 or

391 (b) the mayor in the council-manager form of government defined in Subsection
392 10-3b-103(6).

393 [~~40~~] (41) "Municipal general election" means the election held in municipalities and
394 local districts on the first Tuesday after the first Monday in November of each odd-numbered
395 year for the purposes established in Section 20A-1-202.

396 [~~41~~] (42) "Municipal legislative body" means the council of the city or town in any
397 form of municipal government.

398 (43) "Municipal office" means an elective office in a municipality.

399 [~~42~~] (44) "Municipal officers" means those municipal officers that are required by

400 law to be elected.

401 ~~[(43)]~~ (45) "Municipal primary election" means an election held to nominate
402 candidates for municipal office.

403 ~~[(44)]~~ (46) "Official ballot" means the ballots distributed by the election officer to the
404 poll workers to be given to voters to record their votes.

405 ~~[(45)]~~ (47) "Official endorsement" means:

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

407 (i) the ballot as an official ballot;

408 (ii) the date of the election; and

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

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

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

412 (ii) the ballot number.

413 ~~[(46)]~~ (48) "Official register" means the official record furnished to election officials
414 by the election officer that contains the information required by Section 20A-5-401.

415 ~~[(47)]~~ (49) "Paper ballot" means a paper that contains:

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

418 (b) spaces for the voter to record the voter's vote for each office and for or against each
419 ballot proposition.

420 ~~[(48)]~~ (50) "Political party" means an organization of registered voters that has
421 qualified to participate in an election by meeting the requirements of Chapter 8, Political Party
422 Formation and Procedures.

423 ~~[(49)]~~ (51) (a) "Poll worker" means a person assigned by an election official to assist
424 with an election, voting, or counting votes.

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

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

427 ~~[(50)]~~ (52) "Pollbook" means a record of the names of voters in the order that they
428 appear to cast votes.

429 ~~[(51)]~~ (53) "Polling place" means the building where voting is conducted.

430 ~~[(52)]~~ (54) "Position" means a square, circle, rectangle, or other geometric shape on a

431 ballot in which the voter marks the voter's choice.

432 [~~(53)~~] (55) "Provisional ballot" means a ballot voted provisionally by a person:

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

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

435 (c) whose identity was not sufficiently established by a poll worker.

436 [~~(54)~~] (56) "Provisional ballot envelope" means an envelope printed in the form
437 required by Section 20A-6-105 that is used to identify provisional ballots and to provide
438 information to verify a person's legal right to vote.

439 [~~(55)~~] (57) "Primary convention" means the political party conventions at which
440 nominees for the regular primary election are selected.

441 [~~(56)~~] (58) "Protective counter" means a separate counter, which cannot be reset, that:

442 (a) is built into a voting machine; and

443 (b) records the total number of movements of the operating lever.

444 [~~(57)~~] (59) "Qualify" or "qualified" means to take the oath of office and begin
445 performing the duties of the position for which the person was elected.

446 [~~(58)~~] (60) "Receiving judge" means the poll worker that checks the voter's name in the
447 official register, provides the voter with a ballot, and removes the ballot stub from the ballot
448 after the voter has voted.

449 [~~(59)~~] (61) "Registration form" means a book voter registration form and a by-mail
450 voter registration form.

451 [~~(60)~~] (62) "Regular ballot" means a ballot that is not a provisional ballot.

452 [~~(61)~~] (63) "Regular general election" means the election held throughout the state on
453 the first Tuesday after the first Monday in November of each even-numbered year for the
454 purposes established in Section 20A-1-201.

455 [~~(62)~~] (64) "Regular primary election" means the election on the fourth Tuesday of
456 June of each even-numbered year, to nominate candidates of political parties and nonpolitical
457 groups to advance to the regular general election.

458 [~~(63)~~] (65) "Resident" means a person who resides within a specific voting precinct in
459 Utah.

460 [~~(64)~~] (66) "Sample ballot" means a mock ballot similar in form to the official ballot
461 printed and distributed as provided in Section 20A-5-405.

462 [~~(65)~~] (67) "Scratch vote" means to mark or punch the straight party ticket and then
463 mark or punch the ballot for one or more candidates who are members of different political
464 parties.

465 [~~(66)~~] (68) "Secrecy envelope" means the envelope given to a voter along with the
466 ballot into which the voter places the ballot after the voter has voted it in order to preserve the
467 secrecy of the voter's vote.

468 [~~(67)~~] (69) "Special election" means an election held as authorized by Section
469 20A-1-204.

470 [~~(68)~~] (70) "Spoiled ballot" means each ballot that:

- 471 (a) is spoiled by the voter;
- 472 (b) is unable to be voted because it was spoiled by the printer or a poll worker; or
- 473 (c) lacks the official endorsement.

474 [~~(69)~~] (71) "Statewide special election" means a special election called by the governor
475 or the Legislature in which all registered voters in Utah may vote.

476 [~~(70)~~] (72) "Stub" means the detachable part of each ballot.

477 [~~(71)~~] (73) "Substitute ballots" means replacement ballots provided by an election
478 officer to the poll workers when the official ballots are lost or stolen.

479 [~~(72)~~] (74) "Ticket" means each list of candidates for each political party or for each
480 group of petitioners.

481 [~~(73)~~] (75) "Transfer case" means the sealed box used to transport voted ballots to the
482 counting center.

483 [~~(74)~~] (76) "Vacancy" means the absence of a person to serve in any position created
484 by statute, whether that absence occurs because of death, disability, disqualification,
485 resignation, or other cause.

486 [~~(75)~~] (77) "Valid voter identification" means:

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

- 489 (i) a currently valid Utah driver license;
- 490 (ii) a currently valid identification card that is issued by:
 - 491 (A) the state; or
 - 492 (B) a branch, department, or agency of the United States;

- 493 (iii) a currently valid Utah permit to carry a concealed weapon;
- 494 (iv) a currently valid United States passport; or
- 495 (v) a currently valid United States military identification card;
- 496 (b) one of the following identification cards, whether or not the card includes a
- 497 photograph of the voter:
- 498 (i) a valid tribal identification card;
- 499 (ii) a Bureau of Indian Affairs card; or
- 500 (iii) a tribal treaty card; or
- 501 (c) two forms of identification not listed under Subsection [~~(75)~~] (77)(a) or (b) but that
- 502 bear the name of the voter and provide evidence that the voter resides in the voting precinct,
- 503 which may include:
- 504 (i) a current utility bill or a legible copy thereof, dated within the 90 days before the
- 505 election;
- 506 (ii) a bank or other financial account statement, or a legible copy thereof;
- 507 (iii) a certified birth certificate;
- 508 (iv) a valid Social Security card;
- 509 (v) a check issued by the state or the federal government or a legible copy thereof;
- 510 (vi) a paycheck from the voter's employer, or a legible copy thereof;
- 511 (vii) a currently valid Utah hunting or fishing license;
- 512 (viii) certified naturalization documentation;
- 513 (ix) a currently valid license issued by an authorized agency of the United States;
- 514 (x) a certified copy of court records showing the voter's adoption or name change;
- 515 (xi) a valid Medicaid card, Medicare card, or Electronic Benefits Transfer Card;
- 516 (xii) a currently valid identification card issued by:
- 517 (A) a local government within the state;
- 518 (B) an employer for an employee; or
- 519 (C) a college, university, technical school, or professional school located within the
- 520 state; or
- 521 (xiii) a current Utah vehicle registration.
- 522 [~~(76)~~] (78) "Valid write-in candidate" means a candidate who has qualified as a
- 523 write-in candidate by following the procedures and requirements of this title.

524 [~~(77)~~] (79) "Voter" means a person who:

525 (a) meets the requirements for voting in an election;

526 (b) meets the requirements of election registration;

527 (c) is registered to vote; and

528 (d) is listed in the official register book.

529 [~~(78)~~] (80) "Voter registration deadline" means the registration deadline provided in
530 Section 20A-2-102.5.

531 [~~(79)~~] (81) "Voting area" means the area within six feet of the voting booths, voting
532 machines, and ballot box.

533 [~~(80)~~] (82) "Voting booth" means:

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

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

537 [~~(81)~~] (83) "Voting device" means:

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

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

541 (c) an electronic voting device or other device used to make selections and cast a ballot
542 electronically, or any component thereof;

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

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

546 [~~(82)~~] (84) "Voting machine" means a machine designed for the sole purpose of
547 recording and tabulating votes cast by voters at an election.

548 [~~(83)~~] (85) "Voting poll watcher" means a person appointed as provided in this title to
549 witness the distribution of ballots and the voting process.

550 [~~(84)~~] (86) "Voting precinct" means the smallest voting unit established as provided by
551 law within which qualified voters vote at one polling place.

552 [~~(85)~~] (87) "Watcher" means a voting poll watcher, a counting poll watcher, an
553 inspecting poll watcher, and a testing watcher.

554 [~~(86)~~] (88) "Western States Presidential Primary" means the election established in

555 Title 20A, Chapter 9, Part 8.

556 [~~(87)~~] (89) "Write-in ballot" means a ballot containing any write-in votes.

557 [~~(88)~~] (90) "Write-in vote" means a vote cast for a person whose name is not printed on
558 the ballot according to the procedures established in this title.

559 Section 6. Section **20A-1-202** is amended to read:

560 **20A-1-202. Date and purpose of municipal general election.**

561 (1) [~~A~~] Except as provided in Section 20A-1-206, a municipal general election shall be
562 held in municipalities and local districts on the first Tuesday after the first Monday in
563 November of each odd-numbered year.

564 (2) At the municipal general election, the voters shall:

565 (a) (i) choose persons to serve as municipal officers; and

566 (ii) choose persons to serve as local district officers; and

567 (b) approve or reject:

568 (i) any proposed initiatives or referenda that have qualified for the ballot as provided
569 by law; and

570 (ii) any other ballot propositions submitted to the voters that are authorized by the Utah
571 Code.

572 Section 7. Section **20A-1-206** is enacted to read:

573 **20A-1-206. Cancellation of local election -- Municipalities -- Local districts --**
574 **Notice.**

575 (1) A municipal legislative body may cancel a local election if:

576 (a) (i) (A) all municipal officers are elected in an at-large election under Subsection
577 10-3-205.5(1); and

578 (B) the number of municipal officer candidates, including any eligible write-in
579 candidates under Section 20A-9-601, for the at-large municipal offices does not exceed the
580 number of open at-large municipal offices for which the candidates have filed; or

581 (ii) (A) the municipality has adopted an ordinance under Subsection 10-3-205.5(2);

582 (B) the number of municipal officer candidates, including any eligible write-in
583 candidates under Section 20A-9-601, for the at-large municipal offices, if any, does not exceed
584 the number of open at-large municipal offices for which the candidates have filed; and

585 (C) each municipal officer candidate, including any eligible write-in candidates under

586 Section 20A-9-601, in each district is unopposed;

587 (b) there are no other municipal ballot propositions; and

588 (c) the municipal legislative body passes, no later than 20 days before the day of the
589 scheduled election, a resolution that cancels the election and certifies that:

590 (i) each municipal officer candidate is:

591 (A) unopposed; or

592 (B) a candidate for an at-large municipal office for which the number of candidates
593 does not exceed the number of open at-large municipal offices; and

594 (ii) a candidate described in Subsection (1)(c)(i) is considered to be elected to office.

595 (2) A municipal legislative body that cancels a local election in accordance with

596 Subsection (1) shall give notice that the election is cancelled by posting notice:

597 (a) subject to Subsection (5), on the Statewide Electronic Voter Information Website as
598 described in Section 20A-7-801 for 15 consecutive days before the day of the scheduled
599 election;

600 (b) if the municipality has a public website, on the municipality's public website for 15
601 days before the day of the scheduled election;

602 (c) if the municipality publishes a newsletter or other periodical, in the next scheduled
603 newsletter or other periodical published before the day of the scheduled election; and

604 (d) (i) at least twice in a newspaper of general circulation within the municipality
605 before the day of the scheduled election; or

606 (ii) if there is no newspaper of general circulation within the municipality, in at least
607 three conspicuous places within the boundaries of the municipality at least 10 days before the
608 day of the scheduled election.

609 (3) A local district board may cancel an election as described in Section 17B-1-306 if:

610 (a) (i) (A) ~~§~~ → [aH] any ← ~~§~~ local district officers are elected in an at-large election; and

611 (B) the number of local district officer candidates for the at-large local district offices,
612 including any eligible write-in candidates under Section 20A-9-601, does not exceed the
613 number of open at-large local district offices for which the candidates have filed; or

614 (ii) (A) the local district has divided the local district into divisions under Section
615 17B-1-306.5;

616 (B) the number of local district officer candidates, including any eligible write-in

617 candidates under Section 20A-9-601, for the at-large local district offices within the local
618 district, if any, does not exceed the number of open at-large local district offices for which the
619 candidates have filed; and

620 (C) each local district officer candidate, including any eligible write-in candidates
621 under Section 20A-9-601, in each division of the local district is unopposed;

622 (b) there are no other local district ballot propositions; and

623 (c) the local district board of trustees, no later than 20 days before the day of the
624 scheduled election, adopts a resolution that cancels the election and certifies that:

625 (i) each local district officer candidate is:

626 (A) unopposed; or

627 (B) a candidate for an at-large local district office for which the number of candidates
628 does not exceed the number of open at-large local district offices; and

629 (ii) a candidate described in Subsection (3)(c)(i) is considered to be elected to office.

630 (4) A local district that cancels a local election in accordance with Subsection (3) shall
631 give notice that the election is cancelled by posting notice:

632 (a) subject to Subsection (5), on the Statewide Electronic Voter Information Website as
633 described in Section 20A-7-801 for 15 consecutive days before the day of the scheduled
634 election;

635 (b) if the local district has a public website, on the local district's public website for 15
636 days before the day of the scheduled election;

637 (c) if the local district publishes a newsletter or other periodical, in the next scheduled
638 newsletter or other periodical published before the day of the scheduled election; and

639 (d) (i) at least twice in a newspaper of general circulation within the local district
640 before the day of the scheduled election; or

641 (ii) if there is no newspaper of general circulation within the local district, in at least
642 three conspicuous places within the boundaries of the local district at least 10 days before the
643 day of the scheduled election.

644 (5) A municipal legislative body that posts a notice in accordance with Subsection
645 (2)(a) or a local district that posts a notice in accordance with Subsection (4)(a) is not liable for
646 a notice that fails to post due to technical or other error by the publisher of the Statewide
647 Electronic Voter Information Website.

648 Section 8. Section **20A-1-512** is amended to read:

649 **20A-1-512. Midterm vacancies on local district boards.**

650 (1) (a) Whenever a vacancy occurs on any local district board for any reason, a
651 replacement to serve out the unexpired term shall be appointed as provided in this section by:

652 (i) the local district board, if the person vacating the position was elected; or

653 (ii) the appointing authority, as defined in Section 17B-1-102, if the person vacating
654 the position was appointed.

655 (b) Before acting to fill the vacancy, the local district board or appointing authority
656 shall:

657 (i) give public notice of the vacancy at least two weeks before the local district board
658 or appointing authority meets to fill the vacancy; and

659 (ii) identify, in the notice:

660 (A) the date, time, and place of the meeting where the vacancy will be filled; and

661 (B) the person to whom a person interested in being appointed to fill the vacancy may
662 submit his name for consideration and any deadline for submitting it.

663 (2) If the local district board fails to appoint a person to complete an elected board
664 member's term within 90 days, the legislative body of the county or municipality that created
665 the local district shall fill the vacancy following the procedure set forth for a local district in
666 Subsection (1)(b).

667 Section 9. Section **20A-9-601** is amended to read:

668 **20A-9-601. Qualifying as a write-in candidate.**

669 (1) (a) Each person wishing to become a valid write-in candidate shall file a declaration
670 of candidacy in person or through a designated agent for a candidate for President or Vice
671 President of the United States with the appropriate filing officer not later than 30 days before
672 the regular general election or ~~H~~→ 45 days before a ←~~H~~ municipal general election in which the
672a person intends to be a
673 write-in candidate.

674 (b) (i) The filing officer shall:

675 (A) read to the candidate the constitutional and statutory requirements for the office;
676 and

677 (B) ask the candidate whether or not the candidate meets the requirements.

678 (ii) If the candidate cannot meet the requirements of office, the filing officer may not

679 accept the write-in candidate's declaration of candidacy.

680 [~~(2) A write-in candidate in towns need not prequalify with the filing officer.~~]

681 [~~(3)~~] (2) By November 1 of each regular general election year, the lieutenant governor

682 shall certify to each county clerk the names of all write-in candidates who filed their

683 declaration of candidacy with the lieutenant governor.

Legislative Review Note

as of 11-17-10 4:56 PM

Office of Legislative Research and General Counsel

FISCAL NOTE

S.B. 14, 2011 General Session

SHORT TITLE: Local Election Amendments

SPONSOR: Knudson, P.

STATE OF UTAH

STATE GOVERNMENT (UCA 36-12-13(2)(b))

Enactment of this bill likely will not materially impact the state budget.

LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

Enactment of this bill will allow local governments to avoid election costs when a single candidate is running and no other issues are on the ballot. The magnitude of the savings will depend upon the number of unopposed candidates in a specific jurisdiction for a specific election cycle.

DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d))

Enactment of this bill likely will not result in direct, measurable expenditures by Utah residents or businesses.