

1 **ELECTION ADMINISTRATION BY ELECTION OFFICERS**

2 2011 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Peter C. Knudson**

5 House Sponsor: Kraig Powell

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies the Election Code by amending provisions related to contracting with
10 an election officer to conduct an election on behalf of a local political subdivision.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ defines terms;
- 14 ▶ authorizes a local political subdivision to have an election officer from another
15 jurisdiction conduct an election in accordance with a contract or interlocal
16 agreement;
- 17 ▶ requires an election officer conducting an election for another local political
18 subdivision to establish fees that may not exceed the actual costs incurred;
- 19 ▶ allows an election officer to employ an agent or professional service to assist in
20 conducting an election; and
- 21 ▶ makes technical changes.

22 **Money Appropriated in this Bill:**

23 None

24 **Other Special Clauses:**

25 None

26 **Utah Code Sections Affected:**

27 AMENDS:

28 **20A-1-102**, as last amended by Laws of Utah 2010, Chapters 129, 197, and 254

29 **20A-5-400.5**, as last amended by Laws of Utah 2010, Chapter 197

30 ENACTS:

31 **20A-5-400.1**, Utah Code Annotated 1953

32

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

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

35 **20A-1-102. Definitions.**

36 As used in this title:

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

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

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

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

45 (4) "Ballot sheet":

46 (a) means a ballot that:

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

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

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

50 (5) "Ballot label" means the cards, papers, booklet, pages, or other materials that:

51 (a) contain the names of offices and candidates and statements of ballot propositions to
52 be voted on; and

53 (b) are used in conjunction with ballot sheets that do not display that information.

54 (6) "Ballot proposition" means a question, issue, or proposal that is submitted to voters
55 on the ballot for their approval or rejection including:

56 (a) an opinion question specifically authorized by the Legislature;

57 (b) a constitutional amendment;

- 58 (c) an initiative;
- 59 (d) a referendum;
- 60 (e) a bond proposition;
- 61 (f) a judicial retention question; or
- 62 (g) any other ballot question specifically authorized by the Legislature.
- 63 (7) "Board of canvassers" means the entities established by Sections 20A-4-301 and
- 64 20A-4-306 to canvass election returns.
- 65 (8) "Bond election" means an election held for the purpose of approving or rejecting
- 66 the proposed issuance of bonds by a government entity.
- 67 (9) "Book voter registration form" means voter registration forms contained in a bound
- 68 book that are used by election officers and registration agents to register persons to vote.
- 69 (10) "By-mail voter registration form" means a voter registration form designed to be
- 70 completed by the voter and mailed to the election officer.
- 71 (11) "Canvass" means the review of election returns and the official declaration of
- 72 election results by the board of canvassers.
- 73 (12) "Canvassing judge" means a poll worker designated to assist in counting ballots at
- 74 the canvass.
- 75 (13) "Contracting election officer" means an election officer who enters into a contract
- 76 or interlocal agreement with a provider election officer.
- 77 [~~(13)~~] (14) "Convention" means the political party convention at which party officers
- 78 and delegates are selected.
- 79 [~~(14)~~] (15) "Counting center" means one or more locations selected by the election
- 80 officer in charge of the election for the automatic counting of ballots.
- 81 [~~(15)~~] (16) "Counting judge" means a poll worker designated to count the ballots
- 82 during election day.
- 83 [~~(16)~~] (17) "Counting poll watcher" means a person selected as provided in Section
- 84 20A-3-201 to witness the counting of ballots.
- 85 [~~(17)~~] (18) "Counting room" means a suitable and convenient private place or room,

86 immediately adjoining the place where the election is being held, for use by the poll workers
87 and counting judges to count ballots during election day.

88 ~~[(18)]~~ (19) "County officers" means those county officers that are required by law to be
89 elected.

90 ~~[(19)]~~ (20) "Date of the election" or "election day" or "day of the election":

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

93 (b) does not include:

94 (i) deadlines established for absentee voting; or

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

97 ~~[(20)]~~ (21) "Election" means a regular general election, a municipal general election, a
98 statewide special election, a local special election, a regular primary election, a municipal
99 primary election, and a local district election.

100 ~~[(21)]~~ (22) "Election Assistance Commission" means the commission established by
101 Public Law 107-252, the Help America Vote Act of 2002.

102 ~~[(22)]~~ (23) "Election cycle" means the period beginning on the first day persons are
103 eligible to file declarations of candidacy and ending when the canvass is completed.

104 ~~[(23)]~~ (24) "Election judge" means a poll worker that is assigned to:

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

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

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

108 ~~[(24)]~~ (25) "Election officer" means:

109 (a) the lieutenant governor, for all statewide ballots and elections;

110 (b) the county clerk ~~[or clerks for all county ballots and for certain ballots and elections~~
111 ~~as provided in Section 20A-5-400.5;]~~ for:

112 (i) a county ballot and election; and

113 (ii) a ballot and election as a provider election officer as provided in Section

114 20A-5-400.1 or 20A-5-400.5;

115 (c) the municipal clerk for [~~all municipal ballots and for certain ballots and elections as~~
116 ~~provided in Section 20A-5-400.5;~~];

117 (i) a municipal ballot and election; and

118 (ii) a ballot and election as a provider election officer as provided in Section
119 20A-5-400.1 or 20A-5-400.5;

120 (d) the local district clerk or chief executive officer for [~~certain ballots and elections as~~
121 ~~provided in Section 20A-5-400.5; and~~];

122 (i) a local district ballot and election; and

123 (ii) a ballot and election as a provider election officer as provided in Section
124 20A-5-400.1 or 20A-5-400.5; or

125 (e) the business administrator or superintendent of a school district for [~~certain ballots~~
126 ~~or elections as provided in Section 20A-5-400.5;~~];

127 (i) a school district ballot and election; and

128 (ii) a ballot and election as a provider election officer as provided in Section
129 20A-5-400.1 or 20A-5-400.5.

130 [~~25~~] (26) "Election official" means any election officer, election judge, or poll
131 worker.

132 [~~26~~] (27) "Election results" means, for bond elections, the count of those votes cast
133 for and against the bond proposition plus any or all of the election returns that the board of
134 canvassers may request.

135 [~~27~~] (28) "Election returns" includes the pollbook, all affidavits of registration, the
136 military and overseas absentee voter registration and voting certificates, one of the tally sheets,
137 any unprocessed absentee ballots, all counted ballots, all excess ballots, all unused ballots, all
138 spoiled ballots, the ballot disposition form, and the total votes cast form.

139 [~~28~~] (29) "Electronic ballot" means a ballot that is recorded using a direct electronic
140 voting device or other voting device that records and stores ballot information by electronic
141 means.

142 [~~(29)~~] (30) (a) "Electronic voting device" means a voting device that uses electronic
143 ballots.

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

145 [~~(30)~~] (31) "Inactive voter" means a registered voter who has:

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

147 (b) failed to respond to that notice.

148 [~~(31)~~] (32) "Inspecting poll watcher" means a person selected as provided in this title to
149 witness the receipt and safe deposit of voted and counted ballots.

150 [~~(32)~~] (33) "Judicial office" means the office filled by any judicial officer.

151 [~~(33)~~] (34) "Judicial officer" means any justice or judge of a court of record or any
152 county court judge.

153 [~~(34)~~] (35) "Local district" means a local government entity under Title 17B, Limited
154 Purpose Local Government Entities - Local Districts, and includes a special service district
155 under Title 17D, Chapter 1, Special Service District Act.

156 [~~(35)~~] (36) "Local district officers" means those local district officers that are required
157 by law to be elected.

158 [~~(36)~~] (37) "Local election" means a regular municipal election, a local special
159 election, a local district election, and a bond election.

160 [~~(37)~~] (38) "Local political subdivision" means a county, a municipality, a local
161 district, or a local school district.

162 [~~(38)~~] (39) "Local special election" means a special election called by the governing
163 body of a local political subdivision in which all registered voters of the local political
164 subdivision may vote.

165 [~~(39)~~] (40) "Municipal executive" means:

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

167 or

168 (b) the mayor in the council-manager form of government defined in Subsection
169 10-3b-103(6).

170 [~~(40)~~] (41) "Municipal general election" means the election held in municipalities and
171 local districts on the first Tuesday after the first Monday in November of each odd-numbered
172 year for the purposes established in Section 20A-1-202.

173 [~~(41)~~] (42) "Municipal legislative body" means the council of the city or town in any
174 form of municipal government.

175 [~~(42)~~] (43) "Municipal officers" means those municipal officers that are required by
176 law to be elected.

177 [~~(43)~~] (44) "Municipal primary election" means an election held to nominate
178 candidates for municipal office.

179 [~~(44)~~] (45) "Official ballot" means the ballots distributed by the election officer to the
180 poll workers to be given to voters to record their votes.

181 [~~(45)~~] (46) "Official endorsement" means:

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

183 (i) the ballot as an official ballot;

184 (ii) the date of the election; and

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

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

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

188 (ii) the ballot number.

189 [~~(46)~~] (47) "Official register" means the official record furnished to election officials
190 by the election officer that contains the information required by Section 20A-5-401.

191 [~~(47)~~] (48) "Paper ballot" means a paper that contains:

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

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

196 [~~(48)~~] (49) "Political party" means an organization of registered voters that has
197 qualified to participate in an election by meeting the requirements of Chapter 8, Political Party

198 Formation and Procedures.

199 ~~[(49)]~~ (50) (a) "Poll worker" means a person assigned by an election official to assist
200 with an election, voting, or counting votes.

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

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

203 ~~[(50)]~~ (51) "Pollbook" means a record of the names of voters in the order that they
204 appear to cast votes.

205 ~~[(51)]~~ (52) "Polling place" means the building where voting is conducted.

206 ~~[(52)]~~ (53) "Position" means a square, circle, rectangle, or other geometric shape on a
207 ballot in which the voter marks the voter's choice.

208 (54) "Provider election officer" means an election officer who enters into a contract or
209 interlocal agreement with a contracting election officer to conduct an election for the
210 contracting election officer's local political subdivision in accordance with Section
211 20A-5-400.1.

212 ~~[(53)]~~ (55) "Provisional ballot" means a ballot voted provisionally by a person:

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

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

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

216 ~~[(54)]~~ (56) "Provisional ballot envelope" means an envelope printed in the form
217 required by Section 20A-6-105 that is used to identify provisional ballots and to provide
218 information to verify a person's legal right to vote.

219 ~~[(55)]~~ (57) "Primary convention" means the political party conventions at which
220 nominees for the regular primary election are selected.

221 ~~[(56)]~~ (58) "Protective counter" means a separate counter, which cannot be reset, that:

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

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

224 ~~[(57)]~~ (59) "Qualify" or "qualified" means to take the oath of office and begin
225 performing the duties of the position for which the person was elected.

226 [~~(58)~~] (60) "Receiving judge" means the poll worker that checks the voter's name in the
227 official register, provides the voter with a ballot, and removes the ballot stub from the ballot
228 after the voter has voted.

229 [~~(59)~~] (61) "Registration form" means a book voter registration form and a by-mail
230 voter registration form.

231 [~~(60)~~] (62) "Regular ballot" means a ballot that is not a provisional ballot.

232 [~~(61)~~] (63) "Regular general election" means the election held throughout the state on
233 the first Tuesday after the first Monday in November of each even-numbered year for the
234 purposes established in Section 20A-1-201.

235 [~~(62)~~] (64) "Regular primary election" means the election on the fourth Tuesday of
236 June of each even-numbered year, to nominate candidates of political parties and nonpolitical
237 groups to advance to the regular general election.

238 [~~(63)~~] (65) "Resident" means a person who resides within a specific voting precinct in
239 Utah.

240 [~~(64)~~] (66) "Sample ballot" means a mock ballot similar in form to the official ballot
241 printed and distributed as provided in Section 20A-5-405.

242 [~~(65)~~] (67) "Scratch vote" means to mark or punch the straight party ticket and then
243 mark or punch the ballot for one or more candidates who are members of different political
244 parties.

245 [~~(66)~~] (68) "Secrecy envelope" means the envelope given to a voter along with the
246 ballot into which the voter places the ballot after the voter has voted it in order to preserve the
247 secrecy of the voter's vote.

248 [~~(67)~~] (69) "Special election" means an election held as authorized by Section
249 20A-1-204.

250 [~~(68)~~] (70) "Spoiled ballot" means each ballot that:

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

254 [~~(69)~~] (71) "Statewide special election" means a special election called by the governor
255 or the Legislature in which all registered voters in Utah may vote.

256 [~~(70)~~] (72) "Stub" means the detachable part of each ballot.

257 [~~(71)~~] (73) "Substitute ballots" means replacement ballots provided by an election
258 officer to the poll workers when the official ballots are lost or stolen.

259 [~~(72)~~] (74) "Ticket" means each list of candidates for each political party or for each
260 group of petitioners.

261 [~~(73)~~] (75) "Transfer case" means the sealed box used to transport voted ballots to the
262 counting center.

263 [~~(74)~~] (76) "Vacancy" means the absence of a person to serve in any position created
264 by statute, whether that absence occurs because of death, disability, disqualification,
265 resignation, or other cause.

266 [~~(75)~~] (77) "Valid voter identification" means:

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

269 (i) a currently valid Utah driver license;

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

271 (A) the state; or

272 (B) a branch, department, or agency of the United States;

273 (iii) a currently valid Utah permit to carry a concealed weapon;

274 (iv) a currently valid United States passport; or

275 (v) a currently valid United States military identification card;

276 (b) one of the following identification cards, whether or not the card includes a
277 photograph of the voter:

278 (i) a valid tribal identification card;

279 (ii) a Bureau of Indian Affairs card; or

280 (iii) a tribal treaty card; or

281 (c) two forms of identification not listed under Subsection [~~(75)~~] (77)(a) or (b) but that

282 bear the name of the voter and provide evidence that the voter resides in the voting precinct,
283 which may include:

284 (i) a current utility bill or a legible copy thereof, dated within the 90 days before the
285 election;

286 (ii) a bank or other financial account statement, or a legible copy thereof;

287 (iii) a certified birth certificate;

288 (iv) a valid Social Security card;

289 (v) a check issued by the state or the federal government or a legible copy thereof;

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

291 (vii) a currently valid Utah hunting or fishing license;

292 (viii) certified naturalization documentation;

293 (ix) a currently valid license issued by an authorized agency of the United States;

294 (x) a certified copy of court records showing the voter's adoption or name change;

295 (xi) a valid Medicaid card, Medicare card, or Electronic Benefits Transfer Card;

296 (xii) a currently valid identification card issued by:

297 (A) a local government within the state;

298 (B) an employer for an employee; or

299 (C) a college, university, technical school, or professional school located within the
300 state; or

301 (xiii) a current Utah vehicle registration.

302 [~~76~~] (78) "Valid write-in candidate" means a candidate who has qualified as a
303 write-in candidate by following the procedures and requirements of this title.

304 [~~77~~] (79) "Voter" means a person who:

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

306 (b) meets the requirements of election registration;

307 (c) is registered to vote; and

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

309 [~~78~~] (80) "Voter registration deadline" means the registration deadline provided in

310 Section 20A-2-102.5.

311 ~~[(79)]~~ (81) "Voting area" means the area within six feet of the voting booths, voting
312 machines, and ballot box.

313 ~~[(80)]~~ (82) "Voting booth" means:

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

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

317 ~~[(81)]~~ (83) "Voting device" means:

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

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

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

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

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

326 ~~[(82)]~~ (84) "Voting machine" means a machine designed for the sole purpose of
327 recording and tabulating votes cast by voters at an election.

328 ~~[(83)]~~ (85) "Voting poll watcher" means a person appointed as provided in this title to
329 witness the distribution of ballots and the voting process.

330 ~~[(84)]~~ (86) "Voting precinct" means the smallest voting unit established as provided by
331 law within which qualified voters vote at one polling place.

332 ~~[(85)]~~ (87) "Watcher" means a voting poll watcher, a counting poll watcher, an
333 inspecting poll watcher, and a testing watcher.

334 ~~[(86)]~~ (88) "Western States Presidential Primary" means the election established in
335 Title 20A, Chapter 9, Part 8.

336 ~~[(87)]~~ (89) "Write-in ballot" means a ballot containing any write-in votes.

337 ~~[(88)]~~ (90) "Write-in vote" means a vote cast for a person whose name is not printed on

338 the ballot according to the procedures established in this title.

339 Section 2. Section **20A-5-400.1** is enacted to read:

340 **20A-5-400.1. Contracting with an election officer to conduct elections -- Fees --**
341 **Contracts and interlocal agreements -- Private providers.**

342 (1) (a) In accordance with this section, a local political subdivision may enter into a
343 contract or interlocal agreement as provided in Title 11, Chapter 13, Interlocal Cooperation
344 Act, with a provider election officer to conduct an election.

345 (b) If the boundaries of a local political subdivision holding the election extend beyond
346 a single local political subdivision, the local political subdivision may have more than one
347 provider election officer conduct an election.

348 (2) A provider election officer shall conduct an election:

349 (a) under the direction of the contracting election officer; and

350 (b) in accordance with a contract or interlocal agreement.

351 (3) A provider election officer shall establish fees for conducting an election for a
352 contracting election officer that:

353 (a) are consistent with the contract or interlocal agreement; and

354 (b) do not exceed the actual costs incurred by the provider election officer.

355 (4) The contract or interlocal agreement under this section may specify that a
356 contracting election officer request, within a specified number of days before the election, that
357 the provider election officer conduct the election to allow adequate preparations by the
358 provider election officer.

359 (5) An election officer conducting an election may appoint or employ an agent or
360 professional service to assist in conducting the election.

361 Section 3. Section **20A-5-400.5** is amended to read:

362 **20A-5-400.5. Election officer for bond and leeway elections.**

363 (1) When a voted leeway or bond election is held on the regular general election date
364 or regular primary election date, the county clerk shall serve as the provider election officer to
365 conduct [~~and administer~~] that election.

366 (2) (a) When a voted leeway or bond election is held on the municipal general election
367 date or any other election date permitted for special elections under Section 20A-1-204, and the
368 local political subdivision calling the election is entirely within the boundaries of the
369 unincorporated county, the county clerk shall serve as the provider election officer to conduct
370 [~~and administer~~] that election subject to Subsection (3).

371 (b) When a voted leeway or bond election is held on the municipal general election
372 date or any other election date permitted for special elections under Section 20A-1-204, and the
373 local political subdivision calling the election is entirely within the boundaries of a
374 municipality, the municipal clerk for that municipality shall, except as provided in Subsection
375 (3), serve as the provider election officer to conduct [~~and administer~~] that election.

376 (c) When a voted leeway or bond election is held on the municipal general election
377 date or any other election date permitted for special elections under Section 20A-1-204, and the
378 local political subdivision calling the election extends beyond the boundaries of a single
379 municipality:

380 (i) except as provided in Subsection (3), the municipal clerk shall serve as the provider
381 election officer to conduct [~~and administer~~] the election for those portions of the local political
382 subdivision where the municipal general election or other election is being held; and

383 (ii) except as provided in Subsection (3), the county clerk shall serve as the provider
384 election officer to conduct [~~and administer~~] the election for the unincorporated county and for
385 those portions of any municipality where no municipal general election or other election is
386 being held.

387 (3) When a voted leeway or bond election is held on a date when no other election,
388 other than another voted leeway or bond election, is being held in the entire area comprising
389 the local political subdivision calling the voted leeway or bond election:

390 (a) the clerk or chief executive officer of a local district or the business administrator or
391 superintendent of the school district, as applicable, shall serve as the election officer to conduct
392 [~~and administer~~] the bond election for those portions of the local political subdivision in which
393 no other election, other than another voted leeway or bond election, is being held, unless the

394 local district or school district has contracted with ~~[the county clerk, municipal clerk, or both,~~
395 ~~to serve as the election officer]~~ a provider election officer; and

396 (b) the county clerk, municipal clerk, or both, as determined by the local political
397 subdivision holding the bond election, shall serve as the provider election officer to conduct
398 ~~[and administer]~~ the bond election for those portions of the local political subdivision in which
399 another election, other than another voted leeway or bond election, is being held.

400 ~~[(4) (a) In conducting elections under this section:]~~

401 ~~[(i) the local political subdivision shall provide and pay for election notices; and]~~

402 ~~[(ii) the election officer shall determine polling locations and compile, prepare, and~~
403 ~~count the ballots.]~~

404 ~~[(b) The county clerk, the municipal clerk, or both shall:]~~

405 ~~[(i) establish fees for conducting voted leeway and bond elections for local political~~
406 ~~subdivisions; and]~~

407 ~~[(ii) bill each local political subdivision for the cost of conducting the voted leeway or~~
408 ~~bond election.]~~

409 ~~[(c) (i) The fees and charges assessed by a county clerk or a municipal clerk under this~~
410 ~~section may not exceed the actual costs incurred by the county clerk or the municipal clerk.]~~

411 ~~[(ii) The actual costs shall include:]~~

412 ~~[(A) costs of or rental fees associated with the use of election equipment and supplies;~~
413 ~~and]~~

414 ~~[(B) reasonable and necessary administrative costs.]~~

415 ~~[(5) An election officer administering and conducting a voted leeway or bond election~~
416 ~~is authorized to appoint or employ agents and professional services to assist in conducting and~~
417 ~~administering the voted leeway or bond election.]~~

418 ~~[(6) The election officer in a voted leeway or bond election shall conduct its procedures~~
419 ~~under the direction of the local political subdivision calling the voted leeway or bond election.]~~

420 (4) A provider election officer required by this section to conduct an election for a local
421 political subdivision shall comply with Section 20A-5-400.1.

