

MUNICIPAL ELECTION MODIFICATIONS

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions relating to ballots for municipal elections.

Highlighted Provisions:

This bill:

► requires an election officer to ensure that an absentee ballot envelope is constructed so that certain information is not visible during mailing from the voter to the election officer; and

► requires a county, upon the request of a municipality, to provide a service that enables a voter in the municipality to verify information regarding the disposition of a voter's provisional or absentee ballot cast in a municipal election.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

20A-1-102, as last amended by Laws of Utah 2011, Chapters 17, 40, 310, and 335

20A-3-305, as last amended by Laws of Utah 2010, Chapter 197

20A-5-400.1, as enacted by Laws of Utah 2011, Chapter 310

20A-6-105.5, as enacted by Laws of Utah 2003, Chapter 34



28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58

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

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

20A-1-102. Definitions.

As used in this title:

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

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

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

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

~~[(5)]~~ (4) "Ballot label" means the cards, papers, booklet, pages, or other materials that:

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

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

~~[(6)]~~ (5) "Ballot proposition" means a question, issue, or proposal that is submitted to voters on the ballot for their approval or rejection including:

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

(b) a constitutional amendment;

(c) an initiative;

(d) a referendum;

(e) a bond proposition;

(f) a judicial retention question; or

(g) any other ballot question specifically authorized by the Legislature.

~~[(4)]~~ (6) "Ballot sheet":

(a) means a ballot that:

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

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

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

59 (7) "Board of canvassers" means the entities established by Sections 20A-4-301 and
60 20A-4-306 to canvass election returns.

61 (8) "Bond election" means an election held for the purpose of approving or rejecting
62 the proposed issuance of bonds by a government entity.

63 (9) "Book voter registration form" means voter registration forms contained in a bound
64 book that are used by election officers and registration agents to register persons to vote.

65 (10) "By-mail voter registration form" means a voter registration form designed to be
66 completed by the voter and mailed to the election officer.

67 (11) "Canvass" means the review of election returns and the official declaration of
68 election results by the board of canvassers.

69 (12) "Canvassing judge" means a poll worker designated to assist in counting ballots at
70 the canvass.

71 (13) "Contracting election officer" means an election officer who enters into a contract
72 or interlocal agreement with a provider election officer.

73 (14) "Convention" means the political party convention at which party officers and
74 delegates are selected.

75 (15) "Counting center" means one or more locations selected by the election officer in
76 charge of the election for the automatic counting of ballots.

77 (16) "Counting judge" means a poll worker designated to count the ballots during
78 election day.

79 (17) "Counting poll watcher" means a person selected as provided in Section
80 20A-3-201 to witness the counting of ballots.

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

84 (19) "County officers" means those county officers that are required by law to be
85 elected.

86 (20) "Date of the election" or "election day" or "day of the election":

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

89 (b) does not include:

90 (i) deadlines established for absentee voting; or
91 (ii) any early voting or early voting period as provided under Chapter 3, Part 6, Early
92 Voting.

93 (21) "Elected official" means:

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

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

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

99 (22) "Election" means a regular general election, a municipal general election, a
100 statewide special election, a local special election, a regular primary election, a municipal
101 primary election, and a local district election.

102 (23) "Election Assistance Commission" means the commission established by Public
103 Law 107-252, the Help America Vote Act of 2002.

104 (24) "Election cycle" means the period beginning on the first day persons are eligible to
105 file declarations of candidacy and ending when the canvass is completed.

106 (25) "Election judge" means a poll worker that is assigned to:

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

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

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

110 (26) "Election officer" means:

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

112 (b) the county clerk for:

113 (i) a county ballot and election; and

114 (ii) a ballot and election as a provider election officer as provided in Section
115 20A-5-400.1 or 20A-5-400.5;

116 (c) the municipal clerk for:

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:

- 121 (i) a local district ballot and election; and
- 122 (ii) a ballot and election as a provider election officer as provided in Section
- 123 20A-5-400.1 or 20A-5-400.5; or
- 124 (e) the business administrator or superintendent of a school district for:
- 125 (i) a school district ballot and election; and
- 126 (ii) a ballot and election as a provider election officer as provided in Section
- 127 20A-5-400.1 or 20A-5-400.5.
- 128 (27) "Election official" means:
- 129 (a) for an election other than a bond election, the count of votes cast in the election and
- 130 the election returns requested by the board of canvassers; or
- 131 (b) any election officer, election judge, or poll worker.
- 132 (28) "Election results" means:
- 133 (a) for an election other than a bond election, the count of votes cast in the election and
- 134 the election returns requested by the board of canvassers; or
- 135 (b) for bond elections, the count of those votes cast for and against the bond
- 136 proposition plus any or all of the election returns that the board of canvassers may request.
- 137 (29) "Election returns" includes the pollbook, all affidavits of registration, the military
- 138 and overseas absentee voter registration and voting certificates, one of the tally sheets, any
- 139 unprocessed absentee ballots, all counted ballots, all excess ballots, all unused ballots, all
- 140 spoiled ballots, the ballot disposition form, and the total votes cast form.
- 141 (30) "Electronic ballot" means a ballot that is recorded using a direct electronic voting
- 142 device or other voting device that records and stores ballot information by electronic means.
- 143 (31) "Electronic signature" means an electronic sound, symbol, or process attached to
- 144 or logically associated with a record and executed or adopted by a person with the intent to sign
- 145 the record.
- 146 (32) (a) "Electronic voting device" means a voting device that uses electronic ballots.
- 147 (b) "Electronic voting device" includes a direct recording electronic voting device.
- 148 (33) "Inactive voter" means a registered voter who has:
- 149 (a) been sent the notice required by Section 20A-2-306; and
- 150 (b) failed to respond to that notice.
- 151 (34) "Inspecting poll watcher" means a person selected as provided in this title to

152 witness the receipt and safe deposit of voted and counted ballots.

153 (35) "Judicial office" means the office filled by any judicial officer.

154 (36) "Judicial officer" means any justice or judge of a court of record or any county
155 court judge.

156 (37) "Local district" means a local government entity under Title 17B, Limited Purpose
157 Local Government Entities - Local Districts, and includes a special service district under Title
158 17D, Chapter 1, Special Service District Act.

159 (38) "Local district officers" means those local district officers that are required by law
160 to be elected.

161 (39) "Local election" means a regular municipal election, a local special election, a
162 local district election, and a bond election.

163 (40) "Local political subdivision" means a county, a municipality, a local district, or a
164 local school district.

165 (41) "Local special election" means a special election called by the governing body of a
166 local political subdivision in which all registered voters of the local political subdivision may
167 vote.

168 (42) "Municipal executive" means:

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

171 (b) the mayor in the council-manager form of government defined in Subsection
172 10-3b-103(6).

173 (43) "Municipal general election" means the election held in municipalities and local
174 districts on the first Tuesday after the first Monday in November of each odd-numbered year
175 for the purposes established in Section 20A-1-202.

176 (44) "Municipal legislative body" means the council of the city or town in any form of
177 municipal government.

178 (45) "Municipal office" means an elective office in a municipality.

179 (46) "Municipal officers" means those municipal officers that are required by law to be
180 elected.

181 (47) "Municipal primary election" means an election held to nominate candidates for
182 municipal office.

183 (48) "Official ballot" means the ballots distributed by the election officer to the poll
184 workers to be given to voters to record their votes.

185 (49) "Official endorsement" means:

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

187 (i) the ballot as an official ballot;

188 (ii) the date of the election; and

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

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

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

192 (ii) the ballot number.

193 (50) "Official register" means the official record furnished to election officials by the
194 election officer that contains the information required by Section 20A-5-401.

195 (51) "Paper ballot" means a paper that contains:

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

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

200 (52) "Political party" means an organization of registered voters that has qualified to
201 participate in an election by meeting the requirements of Chapter 8, Political Party Formation
202 and Procedures.

203 [~~54~~] (53) "Pollbook" means a record of the names of voters in the order that they
204 appear to cast votes.

205 [~~55~~] (54) "Polling place" means the building where voting is conducted.

206 [~~53~~] (55) (a) "Poll worker" means a person assigned by an election official to assist
207 with an election, voting, or counting votes.

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

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

210 (56) "Position" means a square, circle, rectangle, or other geometric shape on a ballot
211 in which the voter marks the voter's choice.

212 (57) "Provider election officer" means an election officer who enters into a contract or
213 interlocal agreement with a contracting election officer [~~to conduct an election for the~~

214 ~~contracting election officer's local political subdivision in accordance with]~~ for the purposes
215 described in Section 20A-5-400.1.

216 (58) "Provisional ballot" means a ballot voted provisionally by a person:

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

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

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

220 (59) "Provisional ballot envelope" means an envelope printed in the form required by

221 Section 20A-6-105 that is used to identify provisional ballots and to provide information to

222 verify a person's legal right to vote.

223 (60) "Primary convention" means the political party conventions at which nominees for

224 the regular primary election are selected.

225 (61) "Protective counter" means a separate counter, which cannot be reset, that:

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

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

228 (62) "Qualify" or "qualified" means to take the oath of office and begin performing the

229 duties of the position for which the person was elected.

230 (63) "Receiving judge" means the poll worker that checks the voter's name in the

231 official register, provides the voter with a ballot, and removes the ballot stub from the ballot

232 after the voter has voted.

233 (64) "Registration form" means a book voter registration form and a by-mail voter

234 registration form.

235 (65) "Regular ballot" means a ballot that is not a provisional ballot.

236 (66) "Regular general election" means the election held throughout the state on the first

237 Tuesday after the first Monday in November of each even-numbered year for the purposes

238 established in Section 20A-1-201.

239 (67) "Regular primary election" means the election on the fourth Tuesday of June of

240 each even-numbered year, to nominate candidates of political parties and nonpolitical groups to

241 advance to the regular general election.

242 (68) "Resident" means a person who resides within a specific voting precinct in Utah.

243 (69) "Sample ballot" means a mock ballot similar in form to the official ballot printed

244 and distributed as provided in Section 20A-5-405.

245 (70) "Scratch vote" means to mark or punch the straight party ticket and then mark or
246 punch the ballot for one or more candidates who are members of different political parties.

247 (71) "Secrecy envelope" means the envelope given to a voter along with the ballot into
248 which the voter places the ballot after the voter has voted it in order to preserve the secrecy of
249 the voter's vote.

250 (72) "Special election" means an election held as authorized by Section 20A-1-204.

251 (73) "Spoiled ballot" means each ballot that:

252 (a) is spoiled by the voter;

253 (b) is unable to be voted because it was spoiled by the printer or a poll worker; or

254 (c) lacks the official endorsement.

255 (74) "Statewide special election" means a special election called by the governor or the
256 Legislature in which all registered voters in Utah may vote.

257 (75) "Stub" means the detachable part of each ballot.

258 (76) "Substitute ballots" means replacement ballots provided by an election officer to
259 the poll workers when the official ballots are lost or stolen.

260 (77) "Ticket" means each list of candidates for each political party or for each group of
261 petitioners.

262 (78) "Transfer case" means the sealed box used to transport voted ballots to the
263 counting center.

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

267 (80) "Valid voter identification" means:

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

270 (i) a currently valid Utah driver license;

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

272 (A) the state; or

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

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

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

- 276 (v) a currently valid United States military identification card;
- 277 (b) one of the following identification cards, whether or not the card includes a
- 278 photograph of the voter:
 - 279 (i) a valid tribal identification card;
 - 280 (ii) a Bureau of Indian Affairs card; or
 - 281 (iii) a tribal treaty card; or
 - 282 (c) two forms of identification not listed under Subsection (80)(a) or (b) but that bear
 - 283 the name of the voter and provide evidence that the voter resides in the voting precinct, which
 - 284 may include:
 - 285 (i) a current utility bill or a legible copy thereof, dated within the 90 days before the
 - 286 election;
 - 287 (ii) a bank or other financial account statement, or a legible copy thereof;
 - 288 (iii) a certified birth certificate;
 - 289 (iv) a valid Social Security card;
 - 290 (v) a check issued by the state or the federal government or a legible copy thereof;
 - 291 (vi) a paycheck from the voter's employer, or a legible copy thereof;
 - 292 (vii) a currently valid Utah hunting or fishing license;
 - 293 (viii) certified naturalization documentation;
 - 294 (ix) a currently valid license issued by an authorized agency of the United States;
 - 295 (x) a certified copy of court records showing the voter's adoption or name change;
 - 296 (xi) a valid Medicaid card, Medicare card, or Electronic Benefits Transfer Card;
 - 297 (xii) a currently valid identification card issued by:
 - 298 (A) a local government within the state;
 - 299 (B) an employer for an employee; or
 - 300 (C) a college, university, technical school, or professional school located within the
 - 301 state; or
 - 302 (xiii) a current Utah vehicle registration.
 - 303 (81) "Valid write-in candidate" means a candidate who has qualified as a write-in
 - 304 candidate by following the procedures and requirements of this title.
 - 305 (82) "Voter" means a person who:
 - 306 (a) meets the requirements for voting in an election;

307 (b) meets the requirements of election registration;

308 (c) is registered to vote; and

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

310 (83) "Voter registration deadline" means the registration deadline provided in Section
311 20A-2-102.5.

312 (84) "Voting area" means the area within six feet of the voting booths, voting
313 machines, and ballot box.

314 (85) "Voting booth" means:

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

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

318 (86) "Voting device" means:

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

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

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

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

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

327 (87) "Voting machine" means a machine designed for the sole purpose of recording
328 and tabulating votes cast by voters at an election.

329 (88) "Voting poll watcher" means a person appointed as provided in this title to
330 witness the distribution of ballots and the voting process.

331 (89) "Voting precinct" means the smallest voting unit established as provided by law
332 within which qualified voters vote at one polling place.

333 (90) "Watcher" means a voting poll watcher, a counting poll watcher, an inspecting
334 poll watcher, and a testing watcher.

335 (91) "Western States Presidential Primary" means the election established in Chapter 9,
336 Part 8, Western States Presidential Primary.

337 (92) "Write-in ballot" means a ballot containing any write-in votes.

338 (93) "Write-in vote" means a vote cast for a person whose name is not printed on the
339 ballot according to the procedures established in this title.

340 Section 2. Section 20A-3-305 is amended to read:

341 **20A-3-305. Mailing of ballot to voter -- Enclose self-addressed envelope --**
342 **Affidavit.**

343 (1) Upon timely receipt of an absentee voter application properly filled out and signed,
344 or as soon after receipt of the application as the official absentee ballots for the voting precinct
345 in which the applicant resides have been printed, the election officer shall either:

- 346 (a) give the applicant an official absentee ballot and envelope to vote in the office; or
- 347 (b) mail an official absentee ballot, postage paid, to the absentee voter and enclose an
348 envelope printed as required in Subsection (2).

349 (2) The election officer shall ensure that:

- 350 (a) the name, official title, and post office address of the election officer is printed on
351 the front of the envelope; and

352 (b) a printed affidavit in substantially the following form is printed on the back of the
353 envelope:

354 "County of _____ State of _____

355 I, _____, solemnly swear that: I am a qualified resident voter of the _____ voting precinct
356 in _____ County, Utah and that I am entitled to vote in that voting precinct at the next election.
357 I am not a convicted felon currently incarcerated for commission of a felony.

358 _____
359 Signature of Absentee Voter"; and

360 (c) the envelope is constructed so that the voter's name, address, precinct, affidavit, and
361 signature are not visible during mailing to the election officer.

362 (3) If the election officer determines that the absentee voter is required to show valid
363 voter identification, the election officer shall:

- 364 (a) issue the voter a provisional ballot in accordance with Section 20A-3-105.5;
- 365 (b) instruct the voter to include a copy of the voter's valid voter identification with the
366 return ballot;
- 367 (c) provide the voter clear instructions on how to vote a provisional ballot; and
- 368 (d) comply with the requirements of Subsection (2).

369 Section 3. Section **20A-5-400.1** is amended to read:

370 **20A-5-400.1. Contracting with an election officer to conduct elections -- Fees --**
371 **Contracts and interlocal agreements -- Private providers.**

372 (1) (a) In accordance with this section, a local political subdivision may enter into a
373 contract or interlocal agreement as provided in Title 11, Chapter 13, Interlocal Cooperation
374 Act, with a provider election officer to:

375 (i) conduct an election[-]; or

376 (ii) operate a system described in Section 20A-6-105.5.

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

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

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

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

383 (3) A provider election officer shall establish fees for conducting an election or
384 operating a system for a contracting election officer that:

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

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

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

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

393 Section 4. Section **20A-6-105.5** is amended to read:

394 **20A-6-105.5. Voter access to provisional or absentee ballot information --**
395 **Contract between municipality and county to provide access to ballot information.**

396 (1) Each county clerk shall implement, through an Internet website, toll-free telephone
397 number, or other means, a system where an individual who voted a provisional ballot may, free
398 of charge, determine if the voter's vote was counted, and, if the vote was not counted, the
399 reason the vote was not counted.

400 (2) At the request of a municipality, the county clerk shall, through a contract or
401 interlocal agreement entered into in accordance with Section 20A-5-400.1, operate for the
402 municipality a system described in Subsection (1) that allows a voter in a municipal election to
403 determine:

404 (a) if the voter's absentee or provisional ballot was received or rejected; and

405 (b) if the voter's absentee or provisional ballot was rejected, the reason the absentee or
406 provisional ballot was rejected.

Legislative Review Note
as of 2-24-12 5:35 PM

Office of Legislative Research and General Counsel