

Representative Rebecca Chavez-Houck proposes the following substitute bill:

VOTER REGISTRATION - ELECTION DAY VOTER

REGISTRATION

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Rebecca Chavez-Houck

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends Title 20A, Election Code, to permit election day voter registration.

Highlighted Provisions:

This bill:

- ▶ permits a person to register to vote on election day if the person:
 - is otherwise eligible to vote; and
 - casts a provisional ballot on election day in the voting precinct where the person resides; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

20A-2-102, as last amended by Laws of Utah 2003, Chapter 34

20A-2-102.5, as last amended by Laws of Utah 2011, Chapters 17, 297, and 327



- 26 **20A-2-201**, as last amended by Laws of Utah 2008, Chapters 225 and 276
- 27 **20A-2-202**, as last amended by Laws of Utah 2009, Chapter 45
- 28 **20A-2-204**, as last amended by Laws of Utah 2006, Chapters 264 and 326
- 29 **20A-2-205**, as last amended by Laws of Utah 2012, Chapter 251
- 30 **20A-2-206**, as last amended by Laws of Utah 2011, Chapter 17
- 31 **20A-2-307**, as last amended by Laws of Utah 2003, Chapter 34
- 32 **20A-4-107**, as last amended by Laws of Utah 2011, Chapters 291, 335 and last
- 33 amended by Coordination Clause, Laws of Utah 2011, Chapter 291

34

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

36 Section 1. Section **20A-2-102** is amended to read:

37 **20A-2-102. Registration a prerequisite to voting.**

38 (1) Except as provided in Subsection (2), a person may not vote at any election unless
39 that person is registered to vote as required by this chapter.

40 (2) A person may vote a provisional ballot for an election as provided in Section
41 20A-2-307 [~~for~~].

42 ~~[(a) a regular general election;]~~

43 ~~[(b) a regular primary election; or]~~

44 ~~[(c) an election for federal office.]~~

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

46 **20A-2-102.5. Voter registration deadline.**

47 (1) Except as provided in [~~Sections~~] Section 20A-2-201 [~~and~~], 20A-2-206 [~~and~~], or
48 20A-2-207, or Chapter 16, Uniform Military and Overseas Voters Act, a person who fails to
49 submit a correctly completed voter registration form on or before the voter registration deadline
50 may not be permitted to vote in the election.

51 (2) The voter registration deadline shall be the date that is 30 calendar days before the
52 date of the election.

53 Section 3. Section **20A-2-201** is amended to read:

54 **20A-2-201. Registering to vote at office of county clerk.**

55 (1) Except as provided in Subsection (3)(b), the county clerk shall register to vote all
56 persons who present themselves for registration at the county clerk's office during designated

57 office hours if those persons, on the date of the election, will be legally eligible to vote in a
58 voting precinct in the county in accordance with Section 20A-2-101.

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

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

65 (b) inform them that:

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

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

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

72 [~~(a) accept registration forms from all persons who present themselves for registration
73 at the clerk's office during designated office hours if those persons;~~]

74 (a) if the person desires to vote in the pending election, inform the person that the
75 person must, on election day, register to vote by casting a provisional ballot in the voting
76 precinct where the person resides; or

77 (b) if the person does not desire to vote in the pending election:

78 (i) accept a registration form from the person if, on the date of the election, the person
79 will be legally qualified and entitled to vote in a voting precinct in the county; and

80 [(b)] (ii) inform [them] the person that [they] the person will be registered to vote but
81 may not vote in the pending election because [they] the person registered too late and chose not
82 to register and vote as described in Subsection (3)(a).

83 Section 4. Section 20A-2-202 is amended to read:

84 **20A-2-202. Registration by mail.**

85 (1) (a) A citizen who will be qualified to vote at the next election may register by mail.

86 (b) To register by mail, a citizen shall complete and sign the by-mail registration form
87 and mail or deliver it to the county clerk of the county in which the citizen resides.

88 (c) In order to register to vote in a particular election, the citizen shall:

89 (i) address the by-mail voter registration form to the county clerk; and

90 (ii) ensure that it is postmarked on or before the voter registration deadline.

91 (d) The citizen has effectively registered to vote under this section only when the

92 county clerk's office has received a correctly completed by-mail voter registration form.

93 (2) Upon receipt of a correctly completed by-mail voter registration form, the county
94 clerk shall:

95 (a) enter the applicant's name on the list of registered voters for the voting precinct in
96 which the applicant resides; and

97 (b) mail confirmation of registration to the newly registered voter after entering the
98 applicant's voting precinct number on that copy.

99 (3) (a) If the county clerk receives a correctly completed by-mail voter registration
100 form that is postmarked after the voter registration deadline, the county clerk shall:

101 (i) unless the applicant registers on election day by casting a provisional ballot in the
102 voting precinct where the applicant resides, register the applicant after the next election; and

103 (ii) if possible, promptly phone or mail a notice to the applicant before the election,
104 informing the applicant that [his]:

105 (A) the applicant's registration will not be effective until after the election[-]; and

106 (B) the applicant may register to vote on election day by casting a provisional ballot in
107 the voting precinct where the applicant resides.

108 (b) When the county clerk receives a correctly completed by-mail voter registration
109 form at least seven days before an election that is postmarked on or before the date of the voter
110 registration deadline, the county clerk shall:

111 (i) process the by-mail voter registration form; and

112 (ii) record the new voter in the official register.

113 (4) If the county clerk determines that a registration form received by mail or otherwise
114 is incorrect because of an error or because it is incomplete, the county clerk shall mail notice to
115 the person attempting to register, [~~informing him that he~~] stating that the person has not been
116 registered because of an error or because the form is incomplete.

117 Section 5. Section **20A-2-204** is amended to read:

118 **20A-2-204. Registering to vote when applying for or renewing a driver license.**

119 (1) As used in this section, "voter registration form" means the driver license
120 application/voter registration form and the driver license renewal/voter registration form
121 required by Section 20A-2-108.

122 (2) Any citizen who is qualified to vote may register to vote by completing the voter
123 registration form.

124 (3) The Driver License Division shall:

125 (a) assist applicants in completing the voter registration form unless the applicant
126 refuses assistance;

127 (b) accept completed forms for transmittal to the appropriate election official;

128 (c) transmit a copy of each voter registration form to the appropriate election official
129 within five days after it is received by the division;

130 (d) transmit each address change within five days after it is received by the division;

131 and

132 (e) transmit electronically to the lieutenant governor's office the name, address, birth
133 date, and driver license number of each person who answers "yes" to the question on the driver
134 license form about registering to vote.

135 (4) Upon receipt of a correctly completed voter registration form, the county clerk
136 shall:

137 (a) enter the applicant's name on the list of registered voters for the voting precinct in
138 which the applicant resides; and

139 (b) notify the applicant of registration.

140 (5) (a) If the county clerk receives a correctly completed voter registration form that is
141 dated after the voter registration deadline, the county clerk shall:

142 (i) unless the applicant registers to vote on election day by casting a provisional ballot
143 in the voting precinct where the applicant resides, register the applicant after the next election;
144 and

145 (ii) if possible, promptly phone or mail a notice to the applicant before the election,
146 informing the applicant that [his]:

147 (A) the applicant's registration will not be effective until after the election[;]; and

148 (B) the applicant may register to vote on election day by casting a provisional ballot in
149 the voting precinct where the applicant resides.

150 (b) When the county clerk receives a correctly completed voter registration form at
151 least seven days before an election that is dated on or before the voter registration deadline, the
152 county clerk shall:

- 153 (i) process the voter registration form; and
- 154 (ii) record the new voter in the official register.

155 (6) If the county clerk determines that a voter registration form received from the
156 Driver License Division is incorrect because of an error or because it is incomplete, the county
157 clerk shall mail notice to the person attempting to register, [~~informing him that he~~] stating that
158 the person has not been registered because of an error or because the form is incomplete.

159 Section 6. Section **20A-2-205** is amended to read:

160 **20A-2-205. Registration at voter registration agencies.**

161 (1) As used in this section:

162 (a) "Discretionary voter registration agency" means each office designated by the
163 county clerk under Part 3, County Clerk's Voter Registration Responsibilities, to provide
164 by-mail voter registration forms to the public.

165 (b) "Public assistance agency" means each office in Utah that provides:

- 166 (i) public assistance; or
- 167 (ii) state funded programs primarily engaged in providing services to people with
168 disabilities.

169 (2) Any person may obtain and complete a by-mail registration form at a public
170 assistance agency or discretionary voter registration agency.

171 (3) Each public assistance agency and discretionary voter registration agency shall
172 provide, either as part of existing forms or on a separate form, the following information in
173 substantially the following form:

174 "REGISTERING TO VOTE

175 If you are not registered to vote where you live now, would you like to apply to register
176 to vote here today? (Applying to register to vote or declining to register to vote will not affect
177 the amount of assistance that you will be provided by this agency.) Yes___ No___ IF YOU
178 DO NOT CHECK EITHER BOX, YOU WILL BE CONSIDERED TO HAVE DECIDED
179 NOT TO REGISTER TO VOTE AT THIS TIME. If you would like help in filling out the
180 voter registration application form, we will help you. The decision about whether or not to

181 seek or accept help is yours. You may fill out the application form in private. If you believe
182 that someone has interfered with your right to register or to decline to register to vote, your
183 right to privacy in deciding whether or not to register, or in applying to register to vote, or your
184 right to choose your own political party or other political preference, you may file a complaint
185 with the Office of the Lieutenant Governor, State Capitol Building, Salt Lake City, Utah
186 84114. (The phone number of the Office of the Lieutenant Governor)."

187 (4) Unless a person applying for service or assistance from a public assistance agency
188 or discretionary voter registration agency declines, in writing, to register to vote, each public
189 assistance agency and discretionary voter registration agency shall:

190 (a) distribute a by-mail voter registration form with each application for service or
191 assistance provided by the agency or office;

192 (b) assist applicants in completing the voter registration form unless the applicant
193 refuses assistance;

194 (c) accept completed forms for transmittal to the appropriate election official; and

195 (d) transmit a copy of each voter registration form to the appropriate election official
196 within five days after it is received by the division.

197 (5) A person in a public assistance agency or a discretionary voter registration agency
198 that helps a person complete the voter registration form may not:

199 (a) seek to influence an applicant's political preference or party registration;

200 (b) display any political preference or party allegiance;

201 (c) make any statement to an applicant or take any action that has the purpose or effect
202 of discouraging the applicant from registering to vote; or

203 (d) make any statement to an applicant or take any action that has the purpose or effect
204 of leading the applicant to believe that a decision to register or not to register has any bearing
205 upon the availability of services or benefits.

206 (6) Upon receipt of a correctly completed voter registration form, the county clerk
207 shall:

208 (a) enter the applicant's name on the list of registered voters for the voting precinct in
209 which the applicant resides; and

210 (b) notify the applicant of registration.

211 (7) (a) If the county clerk receives a correctly completed voter registration form that is

212 dated after the voter registration deadline, the county clerk shall:

213 (i) unless the applicant registers on election day by casting a provisional ballot in the
214 voting precinct where the applicant resides, register the applicant after the next election; and

215 (ii) if possible, promptly phone or mail a notice to the applicant before the election,
216 informing the applicant that [his]:

217 (A) the applicant's registration will not be effective until after the election[-]; and

218 (B) the applicant may register to vote on election day by casting a provisional ballot in
219 the voting precinct where the applicant resides.

220 (b) When the county clerk receives a correctly completed voter registration form at
221 least seven days before an election that is dated on or before the voter registration deadline, the
222 county clerk shall:

223 (i) process the voter registration form; and

224 (ii) record the new voter in the official register.

225 (8) If the county clerk determines that a voter registration form received from a public
226 assistance agency or discretionary voter registration agency is incorrect because of an error or
227 because it is incomplete, the county clerk shall mail notice to the person attempting to register,
228 [~~informing him that he~~] stating that the person has not been registered because of an error or
229 because the form is incomplete.

230 Section 7. Section **20A-2-206** is amended to read:

231 **20A-2-206. Electronic registration -- Requests for absentee ballot application.**

232 (1) The lieutenant governor may create and maintain an electronic system for voter
233 registration and requesting an absentee ballot that is publicly available on the Internet.

234 (2) An electronic system for voter registration shall require:

235 (a) that an applicant have a valid driver license or identification card, issued under Title
236 53, Chapter 3, Uniform Driver License Act, that reflects the person's current principal place of
237 residence;

238 (b) that the applicant provide the information required by Section 20A-2-104, except
239 that the applicant's signature may be obtained in the manner described in Subsections (2)(d)
240 and (4);

241 (c) that the applicant attest to the truth of the information provided; and

242 (d) that the applicant authorize the lieutenant governor's and county clerk's use of the

243 applicant's driver license or identification card signature, obtained under Title 53, Chapter 3,
244 Uniform Driver License Act, for voter registration purposes.

245 (3) Notwithstanding Section 20A-2-104, an applicant using the electronic system for
246 voter registration created under this section is not required to complete a printed registration
247 form.

248 (4) A system created and maintained under this section shall provide the notices
249 concerning a voter's presentation of identification contained in Subsection 20A-2-104(1).

250 (5) The lieutenant governor shall obtain a digital copy of the applicant's driver license
251 or identification card signature from the Driver License Division.

252 (6) Upon receiving all information from an applicant and the Driver License Division,
253 the lieutenant governor shall send the information to the county clerk for the county in which
254 the applicant's principal place of residence is found for further action as required by Section
255 20A-2-304.

256 (7) The lieutenant governor may use additional security measures to ensure the
257 accuracy and integrity of an electronically submitted voter registration.

258 (8) (a) If an individual applies to register under this section during the period beginning
259 on the date after the voter registration deadline and ending on the date that is 15 calendar days
260 before the date of an election, the county clerk shall:

261 (i) accept the application for registration if the individual, on the date of the election,
262 will be legally qualified and entitled to vote in a voting precinct in the state; and

263 (ii) inform the individual that:

264 (A) the individual is registered to vote in the pending election; and

265 (B) for the pending election, the individual must vote on the day of the election and is
266 not eligible to vote using early voting under Chapter 3, Part 6, Early Voting, because the
267 individual registered too late.

268 (b) If an individual applies to register under this section during the 14 calendar days
269 before an election, the county clerk shall:

270 (i) if the individual desires to vote in the pending election, inform the individual that
271 the individual must, on election day, register to vote by casting a provisional ballot
272 in the voting precinct where the individual resides; or

273 (ii) if the individual does not desire to vote in the pending election:

274 [(†)] (A) accept the application for registration if the individual, on the date of the
275 election, will be legally qualified and entitled to vote in a voting precinct in the state; and

276 [(†)] (B) inform the individual that the individual is registered to vote but may not vote
277 in the pending election because the individual registered too late and chose not to register and
278 vote as described in Subsection (8)(b)(i).

279 (9) (a) A registered voter may file an application for an absentee ballot in accordance
280 with Section 20A-3-304 on the electronic system for voter registration established under this
281 section.

282 (b) The lieutenant governor shall provide a means by which a registered voter shall
283 sign the application form as provided in Section 20A-3-304.

284 Section 8. Section **20A-2-307** is amended to read:

285 **20A-2-307. County clerks' instructions to election judges.**

286 (1) Each county clerk shall instruct election judges to allow a voter to vote a regular
287 ballot if:

288 (a) the voter has moved from one address within a voting precinct to another address
289 within the same voting precinct; and

290 (b) the voter affirms the change of address orally or in writing before the election
291 judges.

292 (2) Each county clerk shall instruct election judges to allow a person to vote a
293 provisional ballot if:

294 (a) the person registers to vote on election day by casting a provisional ballot in the
295 voting precinct where the person resides;

296 [(†)] (b) the voter's name does not appear on the official register; or

297 [(†)] (c) the voter is challenged as provided in Section 20A-3-202.

298 Section 9. Section **20A-4-107** is amended to read:

299 **20A-4-107. Review and disposition of provisional ballot envelopes.**

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

301 (a) the person:

302 (i) is registered to vote in the state;

303 (ii) votes the ballot for the voting precinct in which the person resides; and

304 (iii) [~~provided~~] provides valid voter identification to the poll worker;

305 (b) the person:
306 (i) is registered to vote in the state;
307 (ii) (A) provided valid voter identification to the poll worker; or
308 (B) either failed to provide valid voter identification or the documents provided as
309 valid voter identification were inadequate and the poll worker recorded that fact in the official
310 register but the county clerk verifies the person's identity and residence through some other
311 means; and

312 (iii) did not vote in the person's precinct of residence, but the ballot that the person
313 voted is identical to the ballot voted in the person's precinct of residence; or

314 (c) the person:

315 (i) is registered to vote in the state;

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

319 (iii) (A) the county clerk verifies the person's identity and residence through some other
320 means as reliable as photo identification; or

321 (B) the person provides valid voter identification to the county clerk or an election
322 officer who is administering the election by the close of normal office hours on Monday after
323 the date of the election.

324 (2) (a) Upon receipt of provisional ballot envelopes, the election officer shall review
325 the affirmation on the face of each provisional ballot envelope and determine if the person
326 signing the affirmation is registered to vote in this state and legally entitled to vote the ballot
327 that the person voted.

328 (b) If the election officer determines that the person is not registered to vote in this
329 state, that the person is otherwise legally entitled to vote the ballot, and that the information on
330 the provisional ballot is complete, the election officer shall:

331 (i) consider the provisional ballot envelope a voter registration form;

332 (ii) register the person to vote; and

333 (iii) place the ballot with the absentee ballots, to be counted with those ballots at the
334 canvass.

335 [~~(b)~~] (c) If the election officer determines that [~~the person is not registered to vote in~~

336 ~~this state or is not], even if the person were registered to vote in this state, the person would not~~
337 ~~otherwise be~~ legally entitled to vote the ballot that the person voted, the election officer shall
338 retain the ballot envelope, unopened, for the period specified in Section 20A-4-202 unless
339 ordered by a court to produce or count [it] the ballot.

340 (c) If the election officer determines that the person is registered to vote in this state
341 and is legally entitled to vote the ballot that the person voted, the election officer shall remove
342 the ballot from the provisional ballot envelope and place the ballot with the absentee ballots to
343 be counted with those ballots at the canvass.

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

346 (3) If the election officer determines that the person is registered to vote in this state, or
347 if the voter is registered to vote under Subsection (2)(b), the election officer shall ensure that
348 the voter registration records are updated to reflect the information provided on the provisional
349 ballot envelope.

350 [~~(4) If the election officer determines that the person is not registered to vote in this~~
351 ~~state and the information on the provisional ballot envelope is complete, the election officer~~
352 ~~shall:]~~

353 [~~(a) consider the provisional ballot envelope a voter registration form; and]~~

354 [~~(b) register the person.]~~