

HB0091S01 compared with HB0091

~~{deleted text}~~ shows text that was in HB0091 but was deleted in HB0091S01.

inserted text shows text that was not in HB0091 but was inserted into HB0091S01.

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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}~~ 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 ~~{and}~~ if the person:
 - is otherwise eligible to ~~{cast}~~ vote; and
 - casts a provisional ballot ~~{if the person presents himself or herself:~~
 - ~~when the polls are open }~~ on election day ~~{; and~~
 - ~~at}~~ in the voting precinct where the person resides; and
- ▶ makes technical and conforming changes.

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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

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

20A-2-202, as last amended by Laws of Utah 2009, Chapter 45

20A-2-204, as last amended by Laws of Utah 2006, Chapters 264 and 326

20A-2-205, as last amended by Laws of Utah 2012, Chapter 251

20A-2-206, as last amended by Laws of Utah 2011, Chapter 17

20A-2-307, as last amended by Laws of Utah 2003, Chapter 34

~~ENACTS:~~

~~†~~ ~~20A-2-207, Utah Code Annotated 1953~~; 20A-4-107, as last amended by Laws of Utah 2011, Chapters 291, 335 and last amended by Coordination Clause, Laws of Utah 2011, Chapter 291

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

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

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

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

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

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

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

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

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

20A-2-102.5. Voter registration deadline.

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

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

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

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

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

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

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

(b) inform them that:

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

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

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

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

(a) if the person desires to vote in the pending election, inform the person that the person must, on election day, register ~~and cast~~ to vote by casting a provisional ballot in the ~~person's~~ voting precinct where the person resides; or

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

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

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

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

20A-2-202. Registration by mail.

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

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

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

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

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

(d) The citizen has effectively registered to vote under this section only when the county clerk's office has received a correctly completed by-mail voter registration form.

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

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

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

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

(i) unless the applicant registers on election day ~~under Section 20A-2-207~~ by casting a provisional ballot in the voting precinct where the applicant resides, register the applicant after the next election; and

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

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

(B) the applicant may register to vote on election day ~~under Section 20A-2-207~~ by casting a provisional ballot in the voting precinct where the applicant resides.

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

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

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

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

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

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

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

(3) The Driver License Division shall:

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

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

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

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

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

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

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

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(b) notify the applicant of registration.

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

(i) unless the applicant registers to vote on election day ~~under Section 20A-2-207~~ by casting a provisional ballot in the voting precinct where the applicant resides, register the applicant after the next election; and

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

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

(B) the applicant may register to vote on election day ~~under Section 20A-2-207~~ by casting a provisional ballot in the voting precinct where the applicant resides.

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

(i) process the voter registration form; and

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

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

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

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

(1) As used in this section:

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

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

(i) public assistance; or

(ii) state funded programs primarily engaged in providing services to people with disabilities.

(2) Any person may obtain and complete a by-mail registration form at a public

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assistance agency or discretionary voter registration agency.

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

"REGISTERING TO VOTE

If you are not registered to vote where you live now, would you like to apply to register to vote here today? (Applying to register to vote or declining to register to vote will not affect the amount of assistance that you will be provided by this agency.) Yes ___ No ___ IF YOU DO NOT CHECK EITHER BOX, YOU WILL BE CONSIDERED TO HAVE DECIDED NOT TO REGISTER TO VOTE AT THIS TIME. If you would like help in filling out the voter registration application form, we will help you. The decision about whether or not to seek or accept help is yours. You may fill out the application form in private. If you believe that someone has interfered with your right to register or to decline to register to vote, your right to privacy in deciding whether or not to register, or in applying to register to vote, or your right to choose your own political party or other political preference, you may file a complaint with the Office of the Lieutenant Governor, State Capitol Building, Salt Lake City, Utah 84114. (The phone number of the Office of the Lieutenant Governor)."

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

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

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

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

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

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

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

(b) display any political preference or party allegiance;

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

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

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

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

(b) notify the applicant of registration.

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

(i) unless the applicant registers on election day ~~under Section 20A-2-207~~ by casting a provisional ballot in the voting precinct where the applicant resides, register the applicant after the next election; and

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

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

(B) the applicant may register to vote on election day ~~under Section 20A-2-207~~ by casting a provisional ballot in the voting precinct where the applicant resides.

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

(i) process the voter registration form; and

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

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

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

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

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

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

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

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

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

(d) that the applicant authorize the lieutenant governor's and county clerk's use of the applicant's driver license or identification card signature, obtained under Title 53, Chapter 3, Uniform Driver License Act, for voter registration purposes.

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

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

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

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

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

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

(i) accept the application for registration if the individual, on the date of the election,

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will be legally qualified and entitled to vote in a voting precinct in the state; and

(ii) inform the individual that:

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

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

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

(i) if the individual desires to vote in the pending election, inform the individual that the individual must, on election day, register ~~and cast~~ to vote by casting by casting a provisional ballot in the ~~individual's~~ voting precinct where the individual resides; or

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

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

~~(ii)~~ (B) inform the individual that the individual is registered to vote but may not vote in the pending election because the individual registered too late and chose not to register and vote as described in Subsection (8)(b)(i).

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

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

Section 8. Section ~~{20A-2-207}~~ 20A-2-307 is ~~{enacted}~~ amended to read:

~~{~~ ~~20A-2-207. Election day registration -- Provisional ballots:~~

~~_____~~ (1) An election official shall register a person to vote who:

~~_____~~ (a) is legally eligible to vote, in accordance with Section 20A-2-101; and

~~_____~~ (b) presents himself or herself:

~~_____~~ (i) when the polls are open on election day; and

~~_____~~ (ii) at the voting precinct where the person resides.

~~_____~~ (2) A person who registers to vote on election day, in accordance with this section, may cast a provisional ballot.

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~~Section 9. Section 20A-2-307 is amended to read:~~

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

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

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

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

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

(a) the person registers to vote on election day ~~under Section 20A-2-207~~ by casting a provisional ballot in the voting precinct where the person resides;

~~(a)~~ (b) the voter's name does not appear on the official register; or

~~(b)~~ (c) the voter is challenged as provided in Section 20A-3-202.

†

Legislative Review Note

~~as of 1-22-13 4:47 PM~~

~~Office of Legislative Research and General Counsel~~ Section 9. Section 20A-4-107 is amended to read:

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

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

(a) the person:

(i) is registered to vote in the state;

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

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

(b) the person:

(i) is registered to vote in the state;

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(ii) (A) provided valid voter identification to the poll worker; or

(B) either failed to provide valid voter identification or the documents provided as valid voter identification were inadequate and the poll worker recorded that fact in the official register but the county clerk verifies the person's identity and residence through some other means; and

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

(c) the person:

(i) is registered to vote in the state;

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

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

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

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

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

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

(ii) register the person to vote; and

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

~~(b)~~ (c) If the election officer determines that ~~[the person is not registered to vote in this state or is not]~~, even if the person were registered to vote in this state, the person would not otherwise be legally entitled to vote the ballot that the person voted, the election officer shall

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retain the ballot envelope, unopened, for the period specified in Section 20A-4-202 unless ordered by a court to produce or count [it] the ballot.

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

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

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

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

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

[(b) register the person.]