

Representative Jim Bird proposes the following substitute bill:

ABSENTEE BALLOT AMENDMENTS

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jim Bird

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions relating to elections conducted entirely by absentee ballot.

Highlighted Provisions:

This bill:

- ▶ defines "qualified entity";
- ▶ requires a qualified entity that conducts an election entirely by absentee ballot to provide an election day voting center;
- ▶ provides that, under certain circumstances, a voter is not required to submit an incomplete absentee ballot to vote at an election day voting center;
- ▶ amends procedures for processing an absentee ballot; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

20A-3-302, as last amended by Laws of Utah 2013, Chapter 320



26 **20A-3-306**, as last amended by Laws of Utah 2013, Chapters 198, 219, 320 and last
 27 amended by Coordination Clause, Laws of Utah 2013, Chapter 198
 28 **20A-3-308**, as last amended by Laws of Utah 2012, Chapter 309
 29 **20A-3-702**, as last amended by Laws of Utah 2013, Chapter 198

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

32 Section 1. Section **20A-3-302** is amended to read:

33 **20A-3-302. Conducting entire election by absentee ballot.**

34 (1) As used in this section, "qualified entity" means a county of the first class, as
 35 defined in Section 17-50-501, or a political subdivision within a county of the first class.

36 [~~(1)~~] (2) Notwithstanding Section 17B-1-306, an election officer may administer an
 37 election entirely by absentee ballot.

38 [~~(2)~~] (3) If the election officer decides to administer an election entirely by absentee
 39 ballot, the election officer shall mail to each registered voter within that voting precinct:

40 (a) an absentee ballot;

41 (b) (i) a statement that there will be no polling place in the voting precinct for the
 42 election; or

43 (ii) if the election officer is the election officer for a qualified entity:

44 (A) a statement that the only polling places available for the election are the election
 45 day voting centers identified in the mailing; and

46 (B) information regarding the location and hours of operation of each election day
 47 voting center required by Subsection (6).

48 (c) a business reply mail envelope;

49 (d) instructions for returning the ballot that include an express notice about any
 50 relevant deadlines that the voter must meet in order for the voter's vote to be counted; and

51 (e) if the election officer does not operate an election day voting center, a warning, on a
 52 separate page of colored paper in bold face print, indicating that if the voter fails to follow the
 53 instructions included with the absentee ballot, the voter will be unable to vote in that election
 54 because there will be no polling place in the voting precinct on the day of the election.

55 (3) Any voter who votes by absentee ballot under this section is not required to apply
 56 for an absentee ballot as required by this part.

57 (4) An election officer who administers an election entirely by absentee ballot shall:

58 (a) (i) obtain, in person, the signatures of each voter within that voting precinct before
59 the election; or

60 (ii) obtain the signature of each voter within the voting precinct from the county clerk;
61 and

62 (b) maintain the signatures on file in the election officer's office.

63 (5) (a) Upon receiving the returned absentee ballots, the election officer shall compare
64 the signature on each absentee ballot with the voter's signature that is maintained on file and
65 verify that the signatures are the same.

66 (b) If the election officer questions the authenticity of the signature on the absentee
67 ballot, the election officer shall immediately contact the voter to verify the signature.

68 (c) If the election official determines that the signature on the absentee ballot does not
69 match the voter's signature that is maintained on file, the election officer shall:

70 (i) unless the absentee ballot application deadline described in Section 20A-3-304 has
71 passed, immediately send another absentee ballot and other voting materials as required by this
72 section to the voter; and

73 (ii) disqualify the initial absentee ballot.

74 (6) An election officer of a qualified entity may not administer an election by absentee
75 ballot unless the qualified entity:

76 (a) provides at least one election day voting center, in accordance with Chapter 3, Part
77 7, and an additional election day voting center for every 100,000 residents in the qualified
78 entity's jurisdiction; and

79 (b) does not require an individual who chooses to vote in the election at an election day
80 voting center to submit a complete or incomplete absentee ballot at the election day voting
81 center.

82 Section 2. Section 20A-3-306 is amended to read:

83 **20A-3-306. Voting ballot -- Returning ballot.**

84 (1) (a) Except as provided by Section 20A-1-308, to vote a mail-in absentee ballot, the
85 absentee voter shall:

86 (i) complete and sign the affidavit on the envelope;

87 (ii) mark the votes on the absentee ballot;

88 (iii) place the voted absentee ballot in the envelope;
89 (iv) securely seal the envelope; and
90 (v) attach postage, unless voting in accordance with Section 20A-3-302, and deposit
91 the envelope in the mail or deliver it in person to the election officer from whom the ballot was
92 obtained.

93 (b) Except as provided by Section 20A-1-308, to vote an absentee ballot in person at the
94 office of the election officer, the absent voter shall:

- 95 (i) complete and sign the affidavit on the envelope;
- 96 (ii) mark the votes on the absent-voter ballot;
- 97 (iii) place the voted absent-voter ballot in the envelope;
- 98 (iv) securely seal the envelope; and
- 99 (v) give the ballot and envelope to the election officer.

100 (2) Except as provided by Section 20A-1-308, an absentee ballot is not valid unless:

101 (a) in the case of an absentee ballot that is voted in person, the ballot is:

102 (i) applied for and cast in person at the office of the appropriate election officer no later
103 than the Thursday before election day; or

104 (ii) submitted on election day at a polling location in the political subdivision where
105 the absentee voter resides;

106 (b) in the case of an absentee ballot that is submitted by mail, the ballot is:

107 (i) clearly postmarked before election day; and

108 (ii) received in the office of the election officer before noon on the day of the official
109 canvass following the election; or

110 (c) in the case of a military-overseas ballot, the ballot is submitted in accordance with
111 Section 20A-16-404.

112 (3) An absentee voter may submit a completed absentee ballot at a polling location in a
113 political subdivision holding the election, if the absentee voter resides in the political
114 subdivision.

115 (4) (a) An absentee voter may submit an incomplete absentee ballot at a polling
116 location for the voting precinct where the voter resides, request that the ballot be declared
117 spoiled, and vote in person.

118 (b) An individual voting at an election day voting center under Subsection

119 20A-3-302(6) is not required to submit a complete or incomplete absentee ballot to vote in
120 person at an election day voting center.

121 Section 3. Section **20A-3-308** is amended to read:

122 **20A-3-308. Absentee ballots in the custody of poll workers -- Disposition --**

123 **Notice.**

124 (1) (a) Voting precinct poll workers shall open envelopes containing absentee ballots
125 that are in [~~their~~] the poll workers' custody on election day at the polling places during the time
126 the polls are open as provided in this Subsection (1).

127 (b) The poll workers shall:

128 (i) first, open the outer envelope only; and

129 (ii) compare the signature of the [~~voter~~] applicant on the application with the signature
130 on the affidavit.

131 (2) (a) The poll workers shall carefully open and remove the absentee voter envelope
132 so as not to destroy the affidavit on the envelope if [~~they find~~] the poll worker finds that:

133 (i) the affidavit is sufficient;

134 (ii) the signatures correspond; and

135 (iii) the applicant is registered to vote in that voting precinct and has not voted in that
136 election.

137 (b) If, after opening the absentee voter envelope, the poll worker finds that a
138 provisional ballot envelope is enclosed, the poll worker shall:

139 (i) record, in the official register, whether:

140 (A) the voter included valid voter identification; or

141 (B) a covered voter, as defined in Section 20A-16-102, did not provide valid voter
142 identification as permitted by Public Law 107-252, the Help America Vote Act of 2002;

143 (ii) if any type of identification was included, record the type of identification provided
144 by the voter in the appropriate space in the official register;

145 (iii) record the provisional ballot number on the official register; and

146 (iv) place the provisional ballot envelope with the other provisional ballot envelopes to
147 be transmitted to the county clerk.

148 (c) If the absentee ballot is not a provisional ballot, the poll workers shall:

149 (i) remove the absentee ballot from the envelope without unfolding it or permitting it to

150 be opened or examined;

151 (ii) initial the stub in the same manner as for other ballots;

152 (iii) remove the stub from the ballot;

153 (iv) deposit the ballot in the ballot box; and

154 (v) mark the official register and pollbook to show that the voter has voted.

155 (3) If the poll workers determine that the affidavit is insufficient, or that the signatures
156 do not correspond, or that the applicant is not a registered voter in the voting precinct, ~~they~~ or
157 that the applicant has already voted in that election, the poll worker shall:

158 (a) disallow the vote; and

159 (b) without opening the absentee voter envelope, mark across the face of the envelope:

160 (i) "Rejected as defective"; or

161 (ii) "Rejected as not a registered voter."

162 (4) The poll workers shall deposit the absentee voter envelope, when the absentee
163 ballot is voted, and the absentee voter envelope with its contents unopened when the absent
164 vote is rejected, in the ballot box containing the ballots.

165 (5) (a) An election officer shall notify ~~a voter~~ an applicant if a poll worker rejects the
166 ~~voter's~~ applicant's ballot and specify the reason for the rejection.

167 (b) An election officer shall give the notice described in Subsection (5)(a) to ~~a voter~~
168 an applicant no later than seven days after:

169 (i) election day if the election officer receives the ballot before or on election day; and

170 (ii) the canvass if the election officer receives the ballot after election day and before
171 the end of the canvass.

172 (6) The election officer shall retain and preserve the absentee voter envelopes in the
173 manner provided by law for the retention and preservation of official ballots voted at that
174 election.

175 Section 4. Section **20A-3-702** is amended to read:

176 **20A-3-702. Election day voting center -- Hours of operation -- Compliance with**
177 **Election Code.**

178 (1) An election officer may operate an election day voting center in one or more
179 locations designated under Section **20A-3-703**.

180 (2) An election officer shall provide for voting at an election day voting center by:

- 181 (a) regular ballot if:
- 182 (i) the election day voting center is designated under Section 20A-5-403 as the polling
- 183 place for the voting precinct in which the voter resides; and
- 184 (ii) the voter is eligible to vote using a regular ballot in accordance with this title;
- 185 (b) voting center ballot if:
- 186 (i) the election day voting center is not designated under Section 20A-5-403 as the
- 187 polling place for the voting precinct in which the voter resides;
- 188 (ii) the voter resides within the political subdivision holding the election; and
- 189 (iii) the voter is otherwise eligible to vote using a regular ballot in accordance with this
- 190 title; or
- 191 (c) provisional ballot if the voter is only eligible to vote using a provisional ballot in
- 192 accordance with this title.
- 193 (3) An election officer shall ensure that an election day voting center:
- 194 (a) is open on election day during the time period specified under Section 20A-1-302;
- 195 (b) allows an eligible voter to vote if the voter:
- 196 (i) resides within the political subdivision holding an election; and
- 197 (ii) arrives at the election day voting center by the designated closing time in
- 198 accordance with Section 20A-1-302; and
- 199 (c) is administered according to the requirements of this title.
- 200 (4) A person may submit a completed absentee ballot at an election day voting center
- 201 for the political subdivision in which the person resides.
- 202 (5) (a) A person may submit an incomplete absentee ballot at an election day voting
- 203 center for the political subdivision in which the person resides, request that the ballot be
- 204 declared spoiled, and vote in person.
- 205 (b) An individual voting at an election day voting center under Subsection
- 206 20A-3-302(6) is not required to submit a complete or incomplete absentee ballot to vote in
- 207 person at the election day voting center.