

1 MISSED ELECTIONS AMENDMENTS

2 2014 GENERAL SESSION

3 STATE OF UTAH

4 Chief Sponsor: Jon Cox

5 Senate Sponsor: _____

7 LONG TITLE

8 General Description:

9 This bill amends provisions of the Election Code and Title 17B, Limited Purpose Local
10 Government Entities - Local Districts, to provide for a late municipal general election
11 in the event that a municipal general election is not held, but should have been held.

12 Highlighted Provisions:

13 This bill:

- 14 ▶ defines and modifies terms;
- 15 ▶ provides that, unless a municipal general election is cancelled pursuant to law, a
16 municipal clerk is responsible to ensure that:
- 17 • the election is held on the date required; and
 - 18 • the ballot includes each municipal and local district office that is required to be
19 on the ballot for the current year;
- 20 ▶ provides notice requirements in the event that a municipal clerk fails to ensure that a
21 municipal general election is held as required by law;
- 22 ▶ provides that, if a municipal clerk fails to ensure that a municipal general election is
23 held as required by law:
- 24 • the lieutenant governor shall schedule a late municipal general election and
25 provide written instructions in relation to the election; and
 - 26 • the municipality is responsible to pay the costs of the late municipal general
27 election; and



28 ▶ makes technical and conforming changes.

29 **Money Appropriated in this Bill:**

30 None

31 **Other Special Clauses:**

32 None

33 **Utah Code Sections Affected:**

34 AMENDS:

35 **17B-1-301**, as last amended by Laws of Utah 2011, Chapter 209

36 **20A-1-102**, as last amended by Laws of Utah 2013, Chapter 320

37 **20A-1-206**, as last amended by Laws of Utah 2012, Chapter 97

38 ENACTS:

39 **20A-1-202.5**, Utah Code Annotated 1953



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

42 Section 1. Section **17B-1-301** is amended to read:

43 **17B-1-301. Board of trustees duties and powers.**

44 (1) (a) Each local district shall be governed by a board of trustees which shall manage
45 and conduct the business and affairs of the district and shall determine all questions of district
46 policy.

47 (b) All powers of a local district are exercised through the board of trustees.

48 (2) The board of trustees may:

49 (a) fix the location of the local district's principal place of business and the location of
50 all offices and departments, if any;

51 (b) fix the times of meetings of the board of trustees;

52 (c) select and use an official district seal;

53 (d) subject to Subsections (3) and (4), employ employees and agents, or delegate to
54 district officers power to employ employees and agents, for the operation of the local district
55 and its properties and prescribe or delegate to district officers the power to prescribe the duties,
56 compensation, and terms and conditions of employment of those employees and agents;

57 (e) require district officers and employees charged with the handling of district funds to
58 provide surety bonds in an amount set by the board or provide a blanket surety bond to cover

59 officers and employees;

60 (f) contract for or employ professionals to perform work or services for the local
61 district that cannot satisfactorily be performed by the officers or employees of the district;

62 (g) through counsel, prosecute on behalf of or defend the local district in all court
63 actions or other proceedings in which the district is a party or is otherwise involved;

64 (h) adopt bylaws for the orderly functioning of the board;

65 (i) adopt and enforce rules and regulations for the orderly operation of the local district
66 or for carrying out the district's purposes;

67 (j) prescribe a system of civil service for district employees;

68 (k) on behalf of the local district, enter into contracts that the board considers to be for
69 the benefit of the district;

70 (l) acquire, construct or cause to be constructed, operate, occupy, control, and use
71 buildings, works, or other facilities for carrying out the purposes of the local district;

72 (m) on behalf of the local district, acquire, use, hold, manage, occupy, and possess
73 property necessary to carry out the purposes of the district, dispose of property when the board
74 considers it appropriate, and institute and maintain in the name of the district any action or
75 proceeding to enforce, maintain, protect, or preserve rights or privileges associated with district
76 property;

77 (n) delegate to a district officer the exercise of a district duty; and

78 (o) exercise all powers and perform all functions in the operation of the local district
79 and its properties as are ordinarily exercised by the governing body of a political subdivision of
80 the state and as are necessary to accomplish the purposes of the district.

81 (3) (a) As used in this Subsection (3), "interim vacancy period" means:

82 (i) if any member of the local district board is elected, the period of time that:

83 (A) begins on the day on which a municipal general election described in Section
84 [17B-1-306](#), or a late municipal general election described in Section [20A-1-202.5](#), is held to
85 elect a local district board member; and

86 (B) ends on the day on which the local district board member-elect begins the
87 member's term; or

88 (ii) if any member of the local district board is appointed, the period of time that:

89 (A) begins on the day on which an appointing authority posts a notice of vacancy in

90 accordance with Section 17B-1-304; and

91 (B) ends on the day on which the person who is appointed by the local district board to
92 fill the vacancy begins the person's term.

93 (b) (i) The local district may not hire during an interim vacancy period a manager, a
94 chief executive officer, a chief administrative officer, or a similar position to perform executive
95 and administrative duties or functions.

96 (ii) Notwithstanding Subsection (3)(b)(i):

97 (A) the local district may hire an interim manager, a chief executive officer, a chief
98 administrative officer, or a similar position during an interim vacancy period; and

99 (B) the interim manager's, chief executive officer's, chief administrative officer's, or
100 similar position's employment shall terminate once a new manager, chief executive officer,
101 chief administrative officer, or similar position is hired by the new local district board after the
102 interim vacancy period has ended.

103 (c) Subsection (3)(b) does not apply if:

104 (i) all the elected local district board members who held office on the day of the
105 municipal general election or the late municipal general election whose ~~[term]~~ terms of office
106 ~~[was]~~ were vacant for the election are re-elected to the local district board; and

107 (ii) all the appointed local district board members who were appointed whose term of
108 appointment was expiring are re-appointed to the local district board.

109 (4) A local district board that hires an interim manager, a chief executive officer, a
110 chief administrative officer, or a similar position in accordance with this section may not, on or
111 after May 10, 2011, enter into an employment contract that contains an automatic renewal
112 provision with the interim manager, chief executive officer, chief administrative officer, or
113 similar position.

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

115 **20A-1-102. Definitions.**

116 As used in this title:

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

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

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

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

125 [~~5~~] (4) "Ballot label" means the cards, papers, booklet, pages, or other materials that:

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

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

129 [~~6~~] (5) "Ballot proposition" means a question, issue, or proposal that is submitted to
130 voters on the ballot for their approval or rejection including:

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

132 (b) a constitutional amendment;

133 (c) an initiative;

134 (d) a referendum;

135 (e) a bond proposition;

136 (f) a judicial retention question;

137 (g) an incorporation of a city or town; or

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

139 [~~4~~] (6) "Ballot sheet":

140 (a) means a ballot that:

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

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

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

144 (7) "Bind," "binding," or "bound" means securing more than one piece of paper
145 together with a staple or stitch in at least three places across the top of the paper in the blank
146 space reserved for securing the paper.

147 (8) "Board of canvassers" means the entities established by Sections [20A-4-301](#) and
148 [20A-4-306](#) to canvass election returns.

149 (9) "Bond election" means an election held for the purpose of approving or rejecting
150 the proposed issuance of bonds by a government entity.

151 (10) "Book voter registration form" means voter registration forms contained in a

152 bound book that are used by election officers and registration agents to register persons to vote.

153 (11) "Business reply mail envelope" means an envelope that may be mailed free of
154 charge by the sender.

155 (12) "By-mail voter registration form" means a voter registration form designed to be
156 completed by the voter and mailed to the election officer.

157 (13) "Canvass" means the review of election returns and the official declaration of
158 election results by the board of canvassers.

159 (14) "Canvassing judge" means a poll worker designated to assist in counting ballots at
160 the canvass.

161 (15) "Contracting election officer" means an election officer who enters into a contract
162 or interlocal agreement with a provider election officer.

163 (16) "Convention" means the political party convention at which party officers and
164 delegates are selected.

165 (17) "Counting center" means one or more locations selected by the election officer in
166 charge of the election for the automatic counting of ballots.

167 (18) "Counting judge" means a poll worker designated to count the ballots during
168 election day.

169 (19) "Counting poll watcher" means a person selected as provided in Section
170 [20A-3-201](#) to witness the counting of ballots.

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

174 (21) "County officers" means those county officers that are required by law to be
175 elected.

176 (22) "Date of the election" or "election day" or "day of the election":

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

179 (b) does not include:

180 (i) deadlines established for absentee voting; or

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

- 183 (23) "Elected official" means:
- 184 (a) a person elected to an office under Section 20A-1-303;
- 185 (b) a person who is considered to be elected to a municipal office in accordance with
- 186 Subsection 20A-1-206(1)(c)(ii); or
- 187 (c) a person who is considered to be elected to a local district office in accordance with
- 188 Subsection 20A-1-206(3)(c)(ii).
- 189 (24) "Election" means a regular general election, a municipal general election, a
- 190 statewide special election, a local special election, a regular primary election, a municipal
- 191 primary election, ~~and~~ a local district election, or a late municipal general election.
- 192 (25) "Election Assistance Commission" means the commission established by Public
- 193 Law 107-252, the Help America Vote Act of 2002.
- 194 (26) "Election cycle" means the period beginning on the first day persons are eligible to
- 195 file declarations of candidacy and ending when the canvass is completed.
- 196 (27) "Election judge" means a poll worker that is assigned to:
- 197 (a) preside over other poll workers at a polling place;
- 198 (b) act as the presiding election judge; or
- 199 (c) serve as a canvassing judge, counting judge, or receiving judge.
- 200 (28) "Election officer" means:
- 201 (a) the lieutenant governor, for all statewide ballots and elections;
- 202 (b) the county clerk for:
- 203 (i) a county ballot and election; and
- 204 (ii) a ballot and election as a provider election officer as provided in Section
- 205 20A-5-400.1 or 20A-5-400.5;
- 206 (c) the municipal clerk for:
- 207 (i) a municipal ballot and election; and
- 208 (ii) a ballot and election as a provider election officer as provided in Section
- 209 20A-5-400.1 or 20A-5-400.5;
- 210 (d) the local district clerk or chief executive officer for:
- 211 (i) a local district ballot and election; and
- 212 (ii) a ballot and election as a provider election officer as provided in Section
- 213 20A-5-400.1 or 20A-5-400.5; or

- 214 (e) the business administrator or superintendent of a school district for:
- 215 (i) a school district ballot and election; and
- 216 (ii) a ballot and election as a provider election officer as provided in Section
- 217 [20A-5-400.1](#) or [20A-5-400.5](#).
- 218 (29) "Election official" means any election officer, election judge, or poll worker.
- 219 (30) "Election results" means:
- 220 (a) for an election other than a bond election, the count of votes cast in the election and
- 221 the election returns requested by the board of canvassers; or
- 222 (b) for bond elections, the count of those votes cast for and against the bond
- 223 proposition plus any or all of the election returns that the board of canvassers may request.
- 224 (31) "Election returns" includes the pollbook, the military and overseas absentee voter
- 225 registration and voting certificates, one of the tally sheets, any unprocessed absentee ballots, all
- 226 counted ballots, all excess ballots, all unused ballots, all spoiled ballots, the ballot disposition
- 227 form, and the total votes cast form.
- 228 (32) "Electronic ballot" means a ballot that is recorded using a direct electronic voting
- 229 device or other voting device that records and stores ballot information by electronic means.
- 230 (33) "Electronic signature" means an electronic sound, symbol, or process attached to
- 231 or logically associated with a record and executed or adopted by a person with the intent to sign
- 232 the record.
- 233 (34) (a) "Electronic voting device" means a voting device that uses electronic ballots.
- 234 (b) "Electronic voting device" includes a direct recording electronic voting device.
- 235 (35) "Inactive voter" means a registered voter who has:
- 236 (a) been sent the notice required by Section [20A-2-306](#); and
- 237 (b) failed to respond to that notice.
- 238 (36) "Inspecting poll watcher" means a person selected as provided in this title to
- 239 witness the receipt and safe deposit of voted and counted ballots.
- 240 (37) "Judicial office" means the office filled by any judicial officer.
- 241 (38) "Judicial officer" means any justice or judge of a court of record or any county
- 242 court judge.
- 243 (39) (a) "Late municipal general election" means a municipal general election that,
- 244 pursuant to Section [20A-1-202.5](#), is held later than the normal date described in Subsection

245 [20A-1-202](#)(1) for a municipal general election.

246 (b) "Late municipal general election" includes the election for each office that is
 247 required to be included in the municipal general election, for the year that the municipal
 248 general election should have been held, including the office of:

249 (i) a municipal elected official; and

250 (ii) an elected official for a local district that is partially or completely within the
 251 municipality.

252 [~~(39)~~] (40) "Local district" means a local government entity under Title 17B, Limited
 253 Purpose Local Government Entities - Local Districts, and includes a special service district
 254 under Title 17D, Chapter 1, Special Service District Act.

255 [~~(40)~~] (41) "Local district officers" means those local district officers that are required
 256 by law to be elected.

257 [~~(41)~~] (42) "Local election" means a regular municipal election, a local special
 258 election, a local district election, and a bond election.

259 [~~(42)~~] (43) "Local political subdivision" means a county, a municipality, a local
 260 district, or a local school district.

261 [~~(43)~~] (44) "Local special election" means a special election called by the governing
 262 body of a local political subdivision in which all registered voters of the local political
 263 subdivision may vote.

264 [~~(44)~~] (45) "Municipal executive" means:

265 (a) the mayor in the council-mayor form of government defined in Section [10-3b-102](#);
 266 or

267 (b) the mayor in the council-manager form of government defined in Subsection
 268 [10-3b-103](#)(6).

269 [~~(45)~~] (46) "Municipal general election" means the election held in municipalities and
 270 local districts on the first Tuesday after the first Monday in November of each odd-numbered
 271 year for the purposes established in Section [20A-1-202](#).

272 [~~(46)~~] (47) "Municipal legislative body" means the council of the city or town in any
 273 form of municipal government.

274 [~~(47)~~] (48) "Municipal office" means an elective office in a municipality.

275 [~~(48)~~] (49) "Municipal officers" means those municipal officers that are required by

276 law to be elected.

277 [~~(49)~~] (50) "Municipal primary election" means an election held to nominate
278 candidates for municipal office.

279 [~~(50)~~] (51) "Official ballot" means the ballots distributed by the election officer to the
280 poll workers to be given to voters to record their votes.

281 [~~(51)~~] (52) "Official endorsement" means:

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

283 (i) the ballot as an official ballot;

284 (ii) the date of the election; and

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

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

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

288 (ii) the ballot number.

289 [~~(52)~~] (53) "Official register" means the official record furnished to election officials
290 by the election officer that contains the information required by Section [20A-5-401](#).

291 [~~(53)~~] (54) "Paper ballot" means a paper that contains:

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

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

296 [~~(54)~~] (55) "Political party" means an organization of registered voters that has
297 qualified to participate in an election by meeting the requirements of Chapter 8, Political Party
298 Formation and Procedures.

299 (56) "Pollbook" means a record of the names of voters in the order that they appear to
300 cast votes.

301 (57) "Polling place" means the building where voting is conducted.

302 [~~(55)~~] (58) (a) "Poll worker" means a person assigned by an election official to assist
303 with an election, voting, or counting votes.

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

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

306 [~~(58)~~] (59) "Position" means a square, circle, rectangle, or other geometric shape on a

307 ballot in which the voter marks the voter's choice.

308 ~~[(62)]~~ (60) "Primary convention" means the political party conventions at which
309 nominees for the regular primary election are selected.

310 ~~[(63)]~~ (61) "Protective counter" means a separate counter, which cannot be reset, that:

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

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

313 ~~[(59)]~~ (62) "Provider election officer" means an election officer who enters into a
314 contract or interlocal agreement with a contracting election officer to conduct an election for
315 the contracting election officer's local political subdivision in accordance with Section
316 [20A-5-400.1](#).

317 ~~[(60)]~~ (63) "Provisional ballot" means a ballot voted provisionally by a person:

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

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

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

321 ~~[(61)]~~ (64) "Provisional ballot envelope" means an envelope printed in the form
322 required by Section [20A-6-105](#) that is used to identify provisional ballots and to provide
323 information to verify a person's legal right to vote.

324 ~~[(64)]~~ (65) "Qualify" or "qualified" means to take the oath of office and begin
325 performing the duties of the position for which the person was elected.

326 ~~[(65)]~~ (66) "Receiving judge" means the poll worker that checks the voter's name in the
327 official register, provides the voter with a ballot, and removes the ballot stub from the ballot
328 after the voter has voted.

329 ~~[(66)]~~ (67) "Registration form" means a book voter registration form and a by-mail
330 voter registration form.

331 ~~[(67)]~~ (68) "Regular ballot" means a ballot that is not a provisional ballot.

332 ~~[(68)]~~ (69) "Regular general election" means the election held throughout the state on
333 the first Tuesday after the first Monday in November of each even-numbered year for the
334 purposes established in Section [20A-1-201](#).

335 ~~[(69)]~~ (70) "Regular primary election" means the election on the fourth Tuesday of
336 June of each even-numbered year, to nominate candidates of political parties and nonpolitical
337 groups to advance to the regular general election.

338 [~~(70)~~] (71) "Resident" means a person who resides within a specific voting precinct in
339 Utah.

340 [~~(71)~~] (72) "Sample ballot" means a mock ballot similar in form to the official ballot
341 printed and distributed as provided in Section [20A-5-405](#).

342 [~~(72)~~] (73) "Scratch vote" means to mark or punch the straight party ticket and then
343 mark or punch the ballot for one or more candidates who are members of different political
344 parties.

345 [~~(73)~~] (74) "Secrecy envelope" means the envelope given to a voter along with the
346 ballot into which the voter places the ballot after the voter has voted it in order to preserve the
347 secrecy of the voter's vote.

348 [~~(74)~~] (75) "Special election" means an election held as authorized by Section
349 [20A-1-203](#).

350 [~~(75)~~] (76) "Spoiled ballot" means each ballot that:

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

354 [~~(76)~~] (77) "Statewide special election" means a special election called by the governor
355 or the Legislature in which all registered voters in Utah may vote.

356 [~~(77)~~] (78) "Stub" means the detachable part of each ballot.

357 [~~(78)~~] (79) "Substitute ballots" means replacement ballots provided by an election
358 officer to the poll workers when the official ballots are lost or stolen.

359 [~~(79)~~] (80) "Ticket" means each list of candidates for each political party or for each
360 group of petitioners.

361 [~~(80)~~] (81) "Transfer case" means the sealed box used to transport voted ballots to the
362 counting center.

363 [~~(81)~~] (82) "Vacancy" means the absence of a person to serve in any position created
364 by statute, whether that absence occurs because of death, disability, disqualification,
365 resignation, or other cause.

366 [~~(82)~~] (83) "Valid voter identification" means:

- 367 (a) a form of identification that bears the name and photograph of the voter which may
368 include:

- 369 (i) a currently valid Utah driver license;
- 370 (ii) a currently valid identification card that is issued by:
- 371 (A) the state; or
- 372 (B) a branch, department, or agency of the United States;
- 373 (iii) a currently valid Utah permit to carry a concealed weapon;
- 374 (iv) a currently valid United States passport; or
- 375 (v) a currently valid United States military identification card;
- 376 (b) one of the following identification cards, whether or not the card includes a
- 377 photograph of the voter:
- 378 (i) a valid tribal identification card;
- 379 (ii) a Bureau of Indian Affairs card; or
- 380 (iii) a tribal treaty card; or
- 381 (c) two forms of identification not listed under Subsection [~~82~~] (83)(a) or (b) but that
- 382 bear the name of the voter and provide evidence that the voter resides in the voting precinct,
- 383 which may include:
- 384 (i) a current utility bill or a legible copy thereof, dated within the 90 days before the
- 385 election;
- 386 (ii) a bank or other financial account statement, or a legible copy thereof;
- 387 (iii) a certified birth certificate;
- 388 (iv) a valid Social Security card;
- 389 (v) a check issued by the state or the federal government or a legible copy thereof;
- 390 (vi) a paycheck from the voter's employer, or a legible copy thereof;
- 391 (vii) a currently valid Utah hunting or fishing license;
- 392 (viii) certified naturalization documentation;
- 393 (ix) a currently valid license issued by an authorized agency of the United States;
- 394 (x) a certified copy of court records showing the voter's adoption or name change;
- 395 (xi) a valid Medicaid card, Medicare card, or Electronic Benefits Transfer Card;
- 396 (xii) a currently valid identification card issued by:
- 397 (A) a local government within the state;
- 398 (B) an employer for an employee; or
- 399 (C) a college, university, technical school, or professional school located within the

400 state; or

401 (xiii) a current Utah vehicle registration.

402 [~~(83)~~] (84) "Valid write-in candidate" means a candidate who has qualified as a
403 write-in candidate by following the procedures and requirements of this title.

404 [~~(84)~~] (85) "Voter" means a person who:

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

406 (b) meets the requirements of election registration;

407 (c) is registered to vote; and

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

409 [~~(85)~~] (86) "Voter registration deadline" means the registration deadline provided in
410 Section [20A-2-102.5](#).

411 [~~(86)~~] (87) "Voting area" means the area within six feet of the voting booths, voting
412 machines, and ballot box.

413 [~~(87)~~] (88) "Voting booth" means:

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

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

417 [~~(88)~~] (89) "Voting device" means:

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

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

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

423 (d) an automated voting system under Section [20A-5-302](#); or

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

426 [~~(89)~~] (90) "Voting machine" means a machine designed for the sole purpose of
427 recording and tabulating votes cast by voters at an election.

428 [~~(90)~~] (91) "Voting poll watcher" means a person appointed as provided in this title to
429 witness the distribution of ballots and the voting process.

430 [~~(91)~~] (92) "Voting precinct" means the smallest voting unit established as provided by

431 law within which qualified voters vote at one polling place.

432 ~~[(92)]~~ (93) "Watcher" means a voting poll watcher, a counting poll watcher, an
433 inspecting poll watcher, and a testing watcher.

434 ~~[(93)]~~ (94) "Western States Presidential Primary" means the election established in
435 Chapter 9, Part 8, Western States Presidential Primary.

436 ~~[(94)]~~ (95) "Write-in ballot" means a ballot containing any write-in votes.

437 ~~[(95)]~~ (96) "Write-in vote" means a vote cast for a person whose name is not printed on
438 the ballot according to the procedures established in this title.

439 Section 3. Section **20A-1-202.5** is enacted to read:

440 **20A-1-202.5. Duty of municipal clerk to ensure municipal general election held --**
441 **Late municipal general election -- Cost of election.**

442 (1) Except for an election that is cancelled under Section [20A-1-206](#), a municipal clerk
443 is responsible to ensure that:

444 (a) a municipal general election is held on the date described in Subsection
445 [20A-1-202\(1\)](#); and

446 (b) the ballot for the municipal general election includes:

447 (i) for the municipality and each local district that is partially or completely within the
448 municipality, each office that is required to be included in the municipal general election for
449 the current year; and

450 (ii) each ballot proposition relating to the municipality and to each local district that is
451 partially or completely within the municipality.

452 (2) If a municipal clerk fails to comply with the provisions of Subsection (1):

453 (a) the municipal clerk shall immediately notify the lieutenant governor and the county
454 clerk, in writing, of the failure; and

455 (b) the municipality shall pay all expenses of a late municipal general election,
456 including the expenses of the lieutenant governor and the county clerk in relation to conducting
457 the election.

458 (3) If a municipal clerk fails to provide the notice described in Subsection (2)(a), the
459 lieutenant governor shall, within five business days after the day on which the lieutenant
460 governor discovers that a municipal clerk failed to comply with the provisions of Subsection
461 (1), notify the municipal clerk and the county clerk, in writing, of the failure.

462 (4) (a) Within 14 days after the earlier of the day on which the municipal clerk
463 provides the notice described in Subsection (2)(a) or the lieutenant governor provides the
464 notice described in Subsection (3), the lieutenant governor shall:
465 (i) schedule a late municipal general election to be held as soon as practicable; and
466 (ii) provide the municipal clerk and the county clerk with a written list of instructions
467 to ensure that the late municipal general election is conducted:
468 (A) in an expedited manner;
469 (B) in a manner that preserves the rights of the candidates and voters; and
470 (C) subject to Subsection (4)(a)(ii)(A), to the extent possible, in a manner consistent
471 with the requirements of this chapter.
472 (b) The lieutenant governor shall include in the written instructions described in
473 Subsection (4)(a)(ii):
474 (i) the date of the late municipal general election;
475 (ii) procedures and tasks that the municipal clerk and county clerk are required to
476 comply with and complete in relation to conducting the late municipal general election;
477 (iii) deadlines for tasks and other events in relation to the late municipal general
478 election;
479 (iv) procedures for voting on election day;
480 (v) procedures for early voting, if early voting will be available;
481 (vi) procedures for the transmittal or voting of an absentee ballot or military-overseas
482 ballot;
483 (vii) procedures for the counting of an absentee ballot or military-overseas ballot;
484 (viii) procedures for canvassing election returns; and
485 (ix) other instructions that the lieutenant governor determines are needed.
486 (5) (a) The lieutenant governor may, as necessary, amend the list of instructions
487 described in Subsections (4)(a)(ii) and (4)(b).
488 (b) The governing body of the municipality, the municipal clerk, and the county clerk
489 shall comply with the instructions provided by the lieutenant governor under Subsections (4)
490 and (5)(a).
491 (c) The lieutenant governor may cancel a late municipal general election for the same
492 reasons, and using the same procedure, as the reasons and procedure used by a municipal

493 legislative body or a local district board under Section 20A-1-206.

494 (d) If the lieutenant governor cancels a late municipal general election under Section
495 20A-1-206, the municipality is required to pay all expenses incurred to date, including
496 cancellation expenses, relating to the late municipal general election.

497 (6) (a) Within 60 days after the day on which the late municipal general election is
498 held, the lieutenant governor and the county clerk shall deliver to the governing body of the
499 municipality an invoice for the expenses of the late municipal general election.

500 (b) The governing body of the municipality shall pay the full amount of the invoice
501 described in Subsection (6)(a) within the later of:

502 (i) 30 days after the day on which the governing body receives the invoice; or

503 (ii) a date agreed to in writing by the governing body of the municipality, the county
504 clerk, and the lieutenant governor.

505 (7) Notwithstanding any other provision of the Utah Code, the term of office for an
506 elected official who holds an office that will be subject to election in the late municipal general
507 election shall end at the later of:

508 (a) the day on which the elected official's term of office normally ends; or

509 (b) the day after the day on which the county clerk declares a winner of the office in the
510 late municipal general election.

511 (8) (a) As used in this Subsection (8), "late office taker" means a candidate who, due to
512 a late municipal general election, takes office later than the candidate would have taken office
513 if the municipal general election had been held on the regular date for a municipal general
514 election.

515 (b) Notwithstanding any other provision of the Utah Code, the term of office for a late
516 office taker:

517 (i) begins on the day after the day on which the county clerk declares a winner of the
518 office in the late municipal general election; and

519 (ii) ends on the day on which the late office taker's term of office would have ended
520 had the late office taker been elected on the day on which the municipal general election should
521 have been held.

522 Section 4. Section 20A-1-206 is amended to read:

523 **20A-1-206. Cancellation of local election -- Municipalities -- Local districts --**

524 **Notice.**

525 (1) A municipal legislative body may cancel a local election if:

526 (a) (i) (A) all municipal officers are elected in an at-large election under Subsection
527 [10-3-205.5\(1\)](#); and

528 (B) the number of municipal officer candidates, including any eligible write-in
529 candidates under Section [20A-9-601](#), for the at-large municipal offices does not exceed the
530 number of open at-large municipal offices for which the candidates have filed; or

531 (ii) (A) the municipality has adopted an ordinance under Subsection [10-3-205.5\(2\)](#);

532 (B) the number of municipal officer candidates, including any eligible write-in
533 candidates under Section [20A-9-601](#), for the at-large municipal offices, if any, does not exceed
534 the number of open at-large municipal offices for which the candidates have filed; and

535 (C) each municipal officer candidate, including any eligible write-in candidates under
536 Section [20A-9-601](#), in each district is unopposed;

537 (b) there are no other municipal ballot propositions; and

538 (c) the municipal legislative body passes, no later than 20 days before the day of the
539 scheduled election, a resolution that cancels the election and certifies that:

540 (i) each municipal officer candidate is:

541 (A) unopposed; or

542 (B) a candidate for an at-large municipal office for which the number of candidates
543 does not exceed the number of open at-large municipal offices; and

544 (ii) a candidate described in Subsection (1)(c)(i) is considered to be elected to office.

545 (2) A municipal legislative body that cancels a local election in accordance with
546 Subsection (1) shall give notice that the election is cancelled by posting notice:

547 (a) subject to Subsection (5), on the Statewide Electronic Voter Information Website as
548 described in Section [20A-7-801](#) for 15 consecutive days before the day of the scheduled
549 election;

550 (b) if the municipality has a public website, on the municipality's public website for 15
551 days before the day of the scheduled election;

552 (c) if the municipality publishes a newsletter or other periodical, in the next scheduled
553 newsletter or other periodical published before the day of the scheduled election; and

554 (d) (i) at least twice in a newspaper of general circulation within the municipality

555 before the day of the scheduled election; or

556 (ii) if there is no newspaper of general circulation within the municipality, in at least
557 three conspicuous places within the boundaries of the municipality at least 10 days before the
558 day of the scheduled election.

559 (3) A local district board may cancel an election as described in Section 17B-1-306 if:

560 (a) (i) (A) any local district officers are elected in an at-large election; and

561 (B) the number of local district officer candidates for the at-large local district offices,
562 including any eligible write-in candidates under Section 20A-9-601, does not exceed the
563 number of open at-large local district offices for which the candidates have filed; or

564 (ii) (A) the local district has divided the local district into divisions under Section
565 17B-1-306.5;

566 (B) the number of local district officer candidates, including any eligible write-in
567 candidates under Section 20A-9-601, for the at-large local district offices within the local
568 district, if any, does not exceed the number of open at-large local district offices for which the
569 candidates have filed; and

570 (C) each local district officer candidate, including any eligible write-in candidates
571 under Section 20A-9-601, in each division of the local district is unopposed;

572 (b) there are no other local district ballot propositions; and

573 (c) the local district governing body, no later than 20 days before the day of the
574 scheduled election, adopts a resolution that cancels the election and certifies that:

575 (i) each local district officer candidate is:

576 (A) unopposed; or

577 (B) a candidate for an at-large local district office for which the number of candidates
578 does not exceed the number of open at-large local district offices; and

579 (ii) a candidate described in Subsection (3)(c)(i) is considered to be elected to office.

580 (4) A local district that cancels a local election in accordance with Subsection (3) shall
581 give notice that the election is cancelled by posting notice:

582 (a) subject to Subsection (5), on the Statewide Electronic Voter Information Website as
583 described in Section 20A-7-801 for 15 consecutive days before the day of the scheduled
584 election;

585 (b) if the local district has a public website, on the local district's public website for 15

586 days before the day of the scheduled election;

587 (c) if the local district publishes a newsletter or other periodical, in the next scheduled
588 newsletter or other periodical published before the day of the scheduled election; and

589 (d) (i) at least twice in a newspaper of general circulation within the local district
590 before the day of the scheduled election; or

591 (ii) if there is no newspaper of general circulation within the local district, in at least
592 three conspicuous places within the boundaries of the local district at least 10 days before the
593 day of the scheduled election.

594 (5) A municipal legislative body that posts a notice in accordance with Subsection
595 (2)(a) [or], a local district that posts a notice in accordance with Subsection (4)(a), or the
596 lieutenant governor who posts a notice in accordance with this section and Section
597 20A-1-202.5, is not liable for a notice that fails to post due to technical or other error by the
598 publisher of the Statewide Electronic Voter Information Website.

Legislative Review Note
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Office of Legislative Research and General Counsel