

## HB0369S02 compared with HB0369S01

~~text~~ shows text that was in HB0369S01 but was deleted in HB0369S02.

text shows text that was not in HB0369S01 but was inserted into HB0369S02.

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**Representative Jon Cox** proposes the following substitute bill:

### **MISSED ELECTIONS AMENDMENTS**

2014 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Jon Cox**

Senate Sponsor: \_\_\_\_\_

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#### **LONG TITLE**

##### **General Description:**

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

##### **Highlighted Provisions:**

This bill:

- ▶ defines and modifies terms;
- ▶ provides that, unless a municipal general election is not required to be held, a municipal clerk is responsible to ensure that:
  - the election is held on the date required; and
  - the ballot includes each municipal office that is required to be on the ballot for

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the current year;

- ▶ provides notice requirements in the event that a municipal clerk fails to ensure that a municipal general election is held as required by law;
- ▶ provides that, if a municipal clerk fails to ensure that a municipal general election is held as required by law:
  - the lieutenant governor shall schedule a late municipal general election~~{;}~~ and provide written instructions in relation to the election; and
  - the municipality is responsible to pay the costs of the late municipal general election;
- ▶ provides that, unless a local district election is not required to be held, a~~f~~  
— } local district clerk is responsible to ensure that:
  - the election is held on the date required; and
  - the ballot includes each board ~~{of trustee }~~ position that is required to be on the ballot for the current year;
- ▶ provides notice requirements in the event that a local district clerk fails to ensure that a local district ~~{general }~~ election is held as required by law;
- ▶ provides that, if a local district clerk fails to ensure that a local district ~~{general }~~ election is held as required by law:
  - the lieutenant governor shall schedule a late local district election~~{;}~~ and provide written instructions in relation to the election; and
  - the local district is responsible to pay the costs of the late local district election; and
- ▶ makes technical and conforming changes.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

None

### Utah Code Sections Affected:

AMENDS:

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

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

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

ENACTS:

20A-1-202.5, Utah Code Annotated 1953

20A-1-202.6, Utah Code Annotated 1953

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

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

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

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

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

(2) The board of trustees may:

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

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

(c) select and use an official district seal;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) begins on the day on which a municipal general election described in Section 17B-1-306, or a late local district election described in Section 20A-1-202.6, is held to elect a local district board member; and

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

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

(A) begins on the day on which an appointing authority posts a notice of vacancy in accordance with Section 17B-1-304; and

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

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

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

(A) the local district may hire an interim manager, a chief executive officer, a chief

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administrative officer, or a similar position during an interim vacancy period; and

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

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

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

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

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

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

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

As used in this title:

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

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

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

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

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

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

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

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

- (a) an opinion question specifically authorized by the Legislature;
- (b) a constitutional amendment;
- (c) an initiative;
- (d) a referendum;
- (e) a bond proposition;
- (f) a judicial retention question;
- (g) an incorporation of a city or town; or
- (h) any other ballot question specifically authorized by the Legislature.

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

- (a) means a ballot that:
  - (i) consists of paper or a card where the voter's votes are marked or recorded; and
  - (ii) can be counted using automatic tabulating equipment; and
- (b) includes punch card ballots and other ballots that are machine-countable.
- (7) "Bind," "binding," or "bound" means securing more than one piece of paper together with a staple or stitch in at least three places across the top of the paper in the blank space reserved for securing the paper.

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

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

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

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

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

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

(14) "Canvassing judge" means a poll worker designated to assist in counting ballots at

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the canvass.

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

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

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

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

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

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

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

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

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

(b) does not include:

(i) deadlines established for absentee voting; or

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

(23) "Elected official" means:

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

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

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

(24) "Election" means a regular general election, a municipal general election, a statewide special election, a local special election, a regular primary election, a municipal

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primary election, ~~and~~ a local district election, a late municipal general election, or a late local district election.

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

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

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

- (a) preside over other poll workers at a polling place;
- (b) act as the presiding election judge; or
- (c) serve as a canvassing judge, counting judge, or receiving judge.

(28) "Election officer" means:

- (a) the lieutenant governor, for all statewide ballots and elections;
- (b) the county clerk for:
  - (i) a county ballot and election; and
  - (ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5;
- (c) the municipal clerk for:
  - (i) a municipal ballot and election; and
  - (ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5;
- (d) the local district clerk or chief executive officer for:
  - (i) a local district ballot and election; and
  - (ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5; or
- (e) the business administrator or superintendent of a school district for:
  - (i) a school district ballot and election; and
  - (ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5.

(29) "Election official" means any election officer, election judge, or poll worker.

(30) "Election results" means:

- (a) for an election other than a bond election, the count of votes cast in the election and



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the election returns requested by the board of canvassers; or

(b) for bond elections, the count of those votes cast for and against the bond proposition plus any or all of the election returns that the board of canvassers may request.

(31) "Election returns" includes the pollbook, the military and overseas absentee voter registration and voting certificates, one of the tally sheets, any unprocessed absentee ballots, all counted ballots, all excess ballots, all unused ballots, all spoiled ballots, the ballot disposition form, and the total votes cast form.

(32) "Electronic ballot" means a ballot that is recorded using a direct electronic voting device or other voting device that records and stores ballot information by electronic means.

(33) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

(34) (a) "Electronic voting device" means a voting device that uses electronic ballots.

(b) "Electronic voting device" includes a direct recording electronic voting device.

(35) "Inactive voter" means a registered voter who has:

(a) been sent the notice required by Section 20A-2-306; and

(b) failed to respond to that notice.

(36) "Inspecting poll watcher" means a person selected as provided in this title to witness the receipt and safe deposit of voted and counted ballots.

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

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

(39) (a) "Late local district election" means a local district election that, pursuant to Section 20A-1-202.6, is held later than the normal date described in Subsection 20A-1-202 (1) for a local district election.

(b) "Late local district election" includes the election for each board ~~of trustee~~ ~~member~~ position that is required to be included in the local district election ~~for~~ for the year that the local district election should have been held.

(40) (a) "Late municipal general election" means a municipal general election that, ~~for~~ pursuant to Section 20A-1-202.5, is held later than the normal date described in Subsection 20A-1-202 (1) for a municipal general election.

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(b) "Late municipal general election" includes the election for each office that is required to be included in the municipal general election~~(4)~~ for the year that the municipal general election should have been held.

~~[(39)]~~ (41) "Local district" means a local government entity under Title 17B, Limited Purpose Local Government Entities - Local Districts, and includes a special service district under Title 17D, Chapter 1, Special Service District Act.

~~[(40)]~~ (42) "Local district officers" means those local district officers that are required by law to be elected.

~~[(41)]~~ (43) "Local election" means a regular municipal election, a local special election, a local district election, and a bond election.

~~[(42)]~~ (44) "Local political subdivision" means a county, a municipality, a local district, or a local school district.

~~[(43)]~~ (45) "Local special election" means a special election called by the governing body of a local political subdivision in which all registered voters of the local political subdivision may vote.

~~[(44)]~~ (46) "Municipal executive" means:

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

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

~~[(45)]~~ (47) "Municipal general election" means the election held in municipalities and local districts on the first Tuesday after the first Monday in November of each odd-numbered year for the purposes established in Section 20A-1-202.

~~[(46)]~~ (48) "Municipal legislative body" means the council of the city or town in any form of municipal government.

~~[(47)]~~ (49) "Municipal office" means an elective office in a municipality.

~~[(48)]~~ (50) "Municipal officers" means those municipal officers that are required by law to be elected.

~~[(49)]~~ (51) "Municipal primary election" means an election held to nominate candidates for municipal office.

~~[(50)]~~ (52) "Official ballot" means the ballots distributed by the election officer to the

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poll workers to be given to voters to record their votes.

~~[(51)]~~ (53) "Official endorsement" means:

(a) the information on the ballot that identifies:

(i) the ballot as an official ballot;

(ii) the date of the election; and

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

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

(i) the poll worker's initials; and

(ii) the ballot number.

~~[(52)]~~ (54) "Official register" means the official record furnished to election officials by the election officer that contains the information required by Section 20A-5-401.

~~[(53)]~~ (55) "Paper ballot" means a paper that contains:

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

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

~~[(54)]~~ (56) "Political party" means an organization of registered voters that has qualified to participate in an election by meeting the requirements of Chapter 8, Political Party Formation and Procedures.

~~[(55)]~~ (57) (a) "Poll worker" means a person assigned by an election official to assist with an election, voting, or counting votes.

(b) "Poll worker" includes election judges.

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

~~[(56)]~~ (58) "Pollbook" means a record of the names of voters in the order that they appear to cast votes.

~~[(57)]~~ (59) "Polling place" means the building where voting is conducted.

~~[(58)]~~ (60) "Position" means a square, circle, rectangle, or other geometric shape on a ballot in which the voter marks the voter's choice.

~~[(62)]~~ (61) "Primary convention" means the political party conventions at which nominees for the regular primary election are selected.

~~[(63)]~~ (62) "Protective counter" means a separate counter, which cannot be reset, that:

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(a) is built into a voting machine; and

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

~~[(59)]~~ ~~(~~61~~)~~ ~~(63)~~ "Provider election officer" means an election officer who enters into a contract or interlocal agreement with a contracting election officer to conduct an election for the contracting election officer's local political subdivision in accordance with Section 20A-5-400.1.

~~[(60)]~~ ~~(~~62~~)~~ ~~(64)~~ "Provisional ballot" means a ballot voted provisionally by a person:

- (a) whose name is not listed on the official register at the polling place;
- (b) whose legal right to vote is challenged as provided in this title; or
- (c) whose identity was not sufficiently established by a poll worker.

~~[(61)]~~ ~~(~~63~~)~~ ~~(65)~~ "Provisional ballot envelope" means an envelope printed in the form required by Section 20A-6-105 that is used to identify provisional ballots and to provide information to verify a person's legal right to vote.

~~{~~ ~~[(62)]~~ ~~(64)~~ ~~"Primary convention" means the political party conventions at which nominees for the regular primary election are selected.~~

~~[(63)]~~ ~~(65)~~ ~~"Protective counter" means a separate counter, which cannot be reset, that:~~

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

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

~~†~~ ~~[(64)]~~ ~~(66)~~ "Qualify" or "qualified" means to take the oath of office and begin performing the duties of the position for which the person was elected.

~~[(65)]~~ ~~(67)~~ "Receiving judge" means the poll worker that checks the voter's name in the official register, provides the voter with a ballot, and removes the ballot stub from the ballot after the voter has voted.

~~[(66)]~~ ~~(68)~~ "Registration form" means a book voter registration form and a by-mail voter registration form.

~~[(67)]~~ ~~(69)~~ "Regular ballot" means a ballot that is not a provisional ballot.

~~[(68)]~~ ~~(70)~~ "Regular general election" means the election held throughout the state on the first Tuesday after the first Monday in November of each even-numbered year for the purposes established in Section 20A-1-201.

~~[(69)]~~ ~~(71)~~ "Regular primary election" means the election on the fourth Tuesday of June of each even-numbered year, to nominate candidates of political parties and nonpolitical

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groups to advance to the regular general election.

~~[(70)]~~ (72) "Resident" means a person who resides within a specific voting precinct in Utah.

~~[(71)]~~ (73) "Sample ballot" means a mock ballot similar in form to the official ballot printed and distributed as provided in Section 20A-5-405.

~~[(72)]~~ (74) "Scratch vote" means to mark or punch the straight party ticket and then mark or punch the ballot for one or more candidates who are members of different political parties.

~~[(73)]~~ (75) "Secrecy envelope" means the envelope given to a voter along with the ballot into which the voter places the ballot after the voter has voted it in order to preserve the secrecy of the voter's vote.

~~[(74)]~~ (76) "Special election" means an election held as authorized by Section 20A-1-203.

~~[(75)]~~ (77) "Spoiled ballot" means each ballot that:

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

~~[(76)]~~ (78) "Statewide special election" means a special election called by the governor or the Legislature in which all registered voters in Utah may vote.

~~[(77)]~~ (79) "Stub" means the detachable part of each ballot.

~~[(78)]~~ (80) "Substitute ballots" means replacement ballots provided by an election officer to the poll workers when the official ballots are lost or stolen.

~~[(79)]~~ (81) "Ticket" means each list of candidates for each political party or for each group of petitioners.

~~[(80)]~~ (82) "Transfer case" means the sealed box used to transport voted ballots to the counting center.

~~[(81)]~~ (83) "Vacancy" means the absence of a person to serve in any position created by statute, whether that absence occurs because of death, disability, disqualification, resignation, or other cause.

~~[(82)]~~ (84) "Valid voter identification" means:

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

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include:

- (i) a currently valid Utah driver license;
- (ii) a currently valid identification card that is issued by:
  - (A) the state; or
  - (B) a branch, department, or agency of the United States;
- (iii) a currently valid Utah permit to carry a concealed weapon;
- (iv) a currently valid United States passport; or
- (v) a currently valid United States military identification card;
- (b) one of the following identification cards, whether or not the card includes a

photograph of the voter:

- (i) a valid tribal identification card;
- (ii) a Bureau of Indian Affairs card; or
- (iii) a tribal treaty card; or
- (c) two forms of identification not listed under Subsection [~~(82)~~] (84)(a) or (b) but that

bear the name of the voter and provide evidence that the voter resides in the voting precinct, which may include:

(i) a current utility bill or a legible copy thereof, dated within the 90 days before the election;

- (ii) a bank or other financial account statement, or a legible copy thereof;
- (iii) a certified birth certificate;
- (iv) a valid Social Security card;
- (v) a check issued by the state or the federal government or a legible copy thereof;
- (vi) a paycheck from the voter's employer, or a legible copy thereof;
- (vii) a currently valid Utah hunting or fishing license;
- (viii) certified naturalization documentation;
- (ix) a currently valid license issued by an authorized agency of the United States;
- (x) a certified copy of court records showing the voter's adoption or name change;
- (xi) a valid Medicaid card, Medicare card, or Electronic Benefits Transfer Card;
- (xii) a currently valid identification card issued by:
  - (A) a local government within the state;
  - (B) an employer for an employee; or

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(C) a college, university, technical school, or professional school located within the state; or

(xiii) a current Utah vehicle registration.

~~[(83)]~~ (85) "Valid write-in candidate" means a candidate who has qualified as a write-in candidate by following the procedures and requirements of this title.

~~[(84)]~~ (86) "Voter" means a person who:

- (a) meets the requirements for voting in an election;
- (b) meets the requirements of election registration;
- (c) is registered to vote; and
- (d) is listed in the official register book.

~~[(85)]~~ (87) "Voter registration deadline" means the registration deadline provided in Section 20A-2-102.5.

~~[(86)]~~ (88) "Voting area" means the area within six feet of the voting booths, voting machines, and ballot box.

~~[(87)]~~ (89) "Voting booth" means:

- (a) the space or compartment within a polling place that is provided for the preparation of ballots, including the voting machine enclosure or curtain; or
- (b) a voting device that is free standing.

~~[(88)]~~ (90) "Voting device" means:

- (a) an apparatus in which ballot sheets are used in connection with a punch device for piercing the ballots by the voter;
- (b) a device for marking the ballots with ink or another substance;
- (c) an electronic voting device or other device used to make selections and cast a ballot electronically, or any component thereof;
- (d) an automated voting system under Section 20A-5-302; or
- (e) any other method for recording votes on ballots so that the ballot may be tabulated by means of automatic tabulating equipment.

~~[(89)]~~ (91) "Voting machine" means a machine designed for the sole purpose of recording and tabulating votes cast by voters at an election.

~~[(90)]~~ (92) "Voting poll watcher" means a person appointed as provided in this title to witness the distribution of ballots and the voting process.

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~~[(91)]~~ (93) "Voting precinct" means the smallest voting unit established as provided by law within which qualified voters vote at one polling place.

~~[(92)]~~ (94) "Watcher" means a voting poll watcher, a counting poll watcher, an inspecting poll watcher, and a testing watcher.

~~[(93)]~~ (95) "Western States Presidential Primary" means the election established in Chapter 9, Part 8, Western States Presidential Primary.

~~[(94)]~~ (96) "Write-in ballot" means a ballot containing any write-in votes.

~~[(95)]~~ (97) "Write-in vote" means a vote cast for a person whose name is not printed on the ballot according to the procedures established in this title.

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

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

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

(a) a municipal general election is held on the date described in Subsection 20A-1-202(1); and

(b) the ballot for the municipal general election includes, for the municipality:

(i) each office that is required to be included in the municipal general election for the current year; and

(ii) each ballot proposition relating to the municipality.

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

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

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

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

(4) (a) Within 14 days after the earlier of the day on which the municipal clerk



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provides the notice described in Subsection (2)(a) or the lieutenant governor provides the notice described in Subsection (3), the lieutenant governor shall:

(i) schedule a late municipal general election to be held as soon as practicable; and

(ii) provide the municipal clerk and the county clerk with a written list of instructions to ensure that the late municipal general election is conducted:

(A) in an expedited manner;

(B) in a manner that preserves the rights of the candidates and voters; and

(C) subject to Subsection (4)(a)(ii)(A), to the extent possible, in a manner consistent with the requirements of this chapter.

(b) The lieutenant governor shall include in the written instructions described in Subsection (4)(a)(ii):

(i) the date of the late municipal general election;

(ii) procedures and tasks that the municipal clerk and county clerk are required to comply with and complete in relation to conducting the late municipal general election;

(iii) deadlines for tasks and other events in relation to the late municipal general election;

(iv) procedures for voting on election day;

(v) procedures for early voting, if early voting will be available;

(vi) procedures for the transmittal or voting of an absentee ballot or military-overseas ballot;

(vii) procedures for the counting of an absentee ballot or military-overseas ballot;

(viii) procedures for canvassing election returns; and

(ix) other instructions that the lieutenant governor determines are needed.

(5) (a) The lieutenant governor may, as necessary, amend the list of instructions described in Subsections (4)(a)(ii) and (4)(b).

(b) The governing body of the municipality, the municipal clerk, and the county clerk shall comply with the instructions provided by the lieutenant governor under Subsections (4) and (5)(a).

(c) The lieutenant governor may cancel a late municipal general election for the same reasons, and using the same procedure, as the reasons and procedure used by a municipal legislative body under Section 20A-1-206~~(f)~~.

## HB0369S02 compared with HB0369S01

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

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

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

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

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

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

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

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

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

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

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

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

Section 4. Section **20A-1-202.6** is enacted to read:

**20A-1-202.6. Duty of local district clerk to ensure local district elections held -- Late local district election -- Cost of election.**

## HB0369S02 compared with HB0369S01

(1) Except for an election that is cancelled under Section 20A-1-206, a local district clerk is responsible to ensure that:

(a) a local district election is held on the date described in Subsection 20A-1-202(1);  
and

(b) the ballot for the local district election includes:

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

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

(2) If a ~~{municipal}~~local district clerk fails to comply with the provisions of Subsection (1):

(a) the ~~{municipal}~~local district clerk shall immediately notify the lieutenant governor and the county clerk, in writing, of the failure; and

(b) the ~~{municipality}~~local district shall pay all expenses of a late local district election, including the expenses of the lieutenant governor and the county clerk in relation to conducting the election.

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

(4) (a) Within 14 days after the earlier of the day on which the ~~{municipal}~~local district clerk provides the notice described in Subsection (2)(a) or the lieutenant governor provides the notice described in Subsection (3), the lieutenant governor shall:

(i) schedule a late local district election to be held as soon as practicable; and

(ii) provide the ~~{municipal}~~local district clerk and the county clerk with a written list of instructions to ensure that the late local district election is conducted:

(A) in an expedited manner;

(B) in a manner that preserves the rights of the candidates and voters; and

(C) subject to Subsection (4)(a)(ii)(A), to the extent possible, in a manner consistent with the requirements of this chapter.

## **HB0369S02 compared with HB0369S01**

(b) The lieutenant governor shall include in the written instructions described in Subsection (4)(a)(ii):

(i) the date of the late local district election;

(ii) procedures and tasks that the local district clerk and county clerk are required to comply with and complete in relation to conducting the late local district election;

(iii) deadlines for tasks and other events in relation to the late local district election;

(iv) procedures for voting on election day;

(v) procedures for early voting, if early voting will be available;

(vi) procedures for the transmittal or voting of an absentee ballot or military-overseas ballot;

(vii) procedures for the counting of an absentee ballot or military-overseas ballot;

(viii) procedures for canvassing election returns; and

(ix) other instructions that the lieutenant governor determines are needed.

(5) (a) The lieutenant governor may, as necessary, amend the list of instructions described in Subsections (4)(a)(ii) and (4)(b).

(b) The governing body of the local district, the local district clerk, and the county clerk shall comply with the instructions provided by the lieutenant governor under Subsections (4) and (5)(a).

(c) The lieutenant governor may cancel a late local district election for the same reasons, and using the same procedure, as the reasons and procedure used by a local district board under Section 20A-1-206~~ff~~.

(d) If the lieutenant governor cancels a late local district election under Section 20A-1-206, the local district is required to pay all expenses incurred to date, including cancellation expenses, relating to the late local district election.

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

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

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

(ii) a date agreed to in writing by the governing body of the local district, the county

## HB0369S02 compared with HB0369S01

clerk, and the lieutenant governor.

(7) Notwithstanding any other provision of the Utah Code, the term of office for an elected board ~~of trustee~~ member who holds an office that will be subject to election in the late local district election shall end at the later of:

(a) the day on which the board ~~of trustee~~ member's term of office normally ends; or

(b) the day after the day on which the a winner is declared for the board ~~of trustee~~ position in the late local district election.

(8) (a) As used in this Subsection (8), "late office taker" means a board ~~of trustee~~ candidate who, due to a late local district election, takes office later than the candidate would have taken office if the local district election had been held on the regular date for a local district election.

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

(i) begins on the day after the day on which the county clerk declares a winner of the office in the late local district election; and

(ii) ends on the day on which the late office taker's term of office would have ended had the late office taker been elected on the day on which the local district election should have been held.

Section 5. Section **20A-1-206** is amended to read:

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

#### **Notice.**

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

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

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

(ii) (A) the municipality has adopted an ordinance under Subsection 10-3-205.5(2);

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

## HB0369S02 compared with HB0369S01

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

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

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

(i) each municipal officer candidate is:

(A) unopposed; or

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

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

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

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

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

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

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

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

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

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

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

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

## HB0369S02 compared with HB0369S01

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

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

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

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

(i) each local district officer candidate is:

(A) unopposed; or

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

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

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

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

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

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

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

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

(5) A municipal legislative body that posts a notice in accordance with Subsection (2)(a) ~~[or]~~, a local district that posts a notice in accordance with Subsection (4)(a), or the lieutenant governor who posts a notice in accordance with this section, and Section

## **HB0369S02 compared with HB0369S01**

20A-1-202.5 or 20A-1-202.6, is not liable for a notice that fails to post due to technical or other error by the publisher of the Statewide Electronic Voter Information Website.