

VOTER ELIGIBILITY AMENDMENTS

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: R. Curt Webb

Senate Sponsor: Jerry W. Stevenson

LONG TITLE

General Description:

This bill amends the process by which a challenge to a voter's right to vote is reviewed.

Highlighted Provisions:

This bill:

- ▶ allows a person who challenges a voter's right to vote to submit documents in support of the person's claim;
- ▶ allows a challenged voter to submit documents in support of the challenged voter's right to vote; and
- ▶ limits the scope of a district court's review of an election officer's decision on a challenge to a voter's right to vote.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

20A-3-202.3, as enacted by Laws of Utah 2010, Chapter 83

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

Section 1. Section **20A-3-202.3** is amended to read:

20A-3-202.3. Pre-election challenges to a voter's eligibility in writing -- Procedure -- Form of challenge.

30 (1) (a) A person may challenge the right to vote of a person whose name appears on the
31 official register by filing with the election officer, during regular business hours and not later
32 than 21 days before the date that early voting commences, a written statement that:

- 33 (i) lists the name and address of the person filing the challenge;
- 34 (ii) for each voter who is challenged:
 - 35 (A) identifies the name of the challenged voter;
 - 36 (B) lists the last known address or telephone number of the challenged voter;
 - 37 (C) provides the basis for the challenge, as provided under Section 20A-3-202; [and]
 - 38 (D) provides facts and circumstances supporting the basis provided; and
 - 39 (E) may include supporting documents, affidavits, or other evidence; and

40 (iii) includes a signed affidavit, which is subject to penalties of perjury, swearing that:

41 (A) the filer exercised due diligence to personally verify the facts and circumstances
42 establishing the basis for the challenge; and

43 (B) according to the filer's personal knowledge and belief, the basis for the challenge
44 under Section 20A-3-202 for each challenged voter is valid.

45 (b) The challenge may not be based on unsupported allegations or allegations by an
46 anonymous person.

47 (c) The election officer may provide a form that meets the requirements of this section
48 for challenges filed under this section.

49 (2) (a) If the challenge is not in the proper form or if the basis for the challenge does
50 not meet the requirements of this part, the election officer may dismiss the challenge and notify
51 the filer in writing of the reasons for the dismissal.

52 (b) A challenge is not in the proper form if the challenge form is incomplete.

53 (3) Upon receipt of a challenge that meets the requirements for filing under this
54 section, the election officer shall, at least 14 days before the day on which early voting
55 commences, attempt to notify each challenged voter:

56 (a) that a challenge has been filed against the challenged voter and the challenged voter
57 may be required to cast a provisional ballot at the time of voting;

58 (b) of the basis for the challenge, which may include providing a copy of the written
59 statement to the challenged voter; and

60 (c) that the challenged voter may submit information, a sworn statement, supporting
61 documents, affidavits, or other evidence supporting the challenged voter's right to vote in the
62 election to the election officer no later than seven days before the day on which early voting
63 commences.

64 (4) (a) Before the day on which early voting commences, the election officer shall
65 determine whether each challenged voter is eligible to vote.

66 (b) (i) The filer of the challenge has the burden to prove, by clear and convincing
67 evidence, that the basis for challenging the voter's right to vote is valid.

68 (ii) The election officer shall resolve the challenge based on the available facts and
69 information submitted, which may include voter registration records and other documents or
70 information available to the election officer.

71 (5) A person who files a challenge under the requirements of this section is subject to
72 criminal penalties for false statements as provided under Sections 76-8-503 and 76-8-504 and
73 any other applicable criminal provision.

74 (6) (a) A decision of the election officer regarding a person's eligibility to vote may be
75 appealed to the district court having jurisdiction over the location where the challenge was
76 filed.

77 (b) The district court shall uphold the decision of the election officer unless the district
78 court determines that the decision was arbitrary, capricious, or unlawful.

79 (c) In making the district court's determination, the district court's review is limited to:

80 (i) the information submitted under Subsection (1)(a) by the person challenging the
81 voter's eligibility;

82 (ii) the information submitted under Subsection (3)(c) by the challenged voter; and

83 (iii) any additional facts and information used by the election official to determine
84 whether the challenged voter is eligible to vote, as indicated by the election official.

85 (7) A challenged voter may register to vote or change the location of the voter's voter

86 registration if otherwise legally entitled to do so.

87 (8) All documents pertaining to a voter challenge are public records.