

HB0177S02 compared with HB0177S01

~~text~~ shows text that was in HB0177S01 but was deleted in HB0177S02.

text shows text that was not in HB0177S01 but was inserted into HB0177S02.

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Representative ~~Fred C.~~Brad M. ~~Cox~~Daw proposes the following substitute bill:

MODIFICATIONS TO VOTING LAW

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Fred C. Cox

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions related to absentee ballots and voter registration.

Highlighted Provisions:

This bill:

- ▶ establishes that a voter's absentee status does not expire, unless the voter designates otherwise;
- ▶ describes the action that a county clerk is required to take if an individual does not designate a party affiliation on a voter registration form;
- ▶ modifies a voter registration deadline; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

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Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

20A-2-107, as last amended by Laws of Utah 2008, Chapter 329

20A-2-201, as last amended by Laws of Utah 2014, Chapters 98, 231 and last amended by Coordination Clause, Laws of Utah 2014, Chapter 231

20A-3-304, as last amended by Laws of Utah 2013, Chapters 198, 218 and last amended by Coordination Clause, Laws of Utah 2013, Chapter 198

20A-4-108, as enacted by Laws of Utah 2014, Chapter 231 and last amended by Coordination Clause, Laws of Utah 2014, Chapter 231

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

Section 1. Section **20A-2-107** is amended to read:

20A-2-107. Designating or changing party affiliation -- Times permitted.

(1) The county clerk shall:

(a) record the party affiliation designated by the voter on the voter registration form as the voter's party affiliation; or

(b) if no political party affiliation is designated by the voter on the voter registration form[;]:

(i) except as provided in Subsection (1)(b)(ii), record the voter's party affiliation as the party that the voter designated the last time that the voter designated a party on a voter registration form, unless the voter more recently registered as "unaffiliated"; or

(ii) record the voter's party affiliation as "unaffiliated[;]" if the voter:

(A) did not previously designate a party;

(B) most recently designated the voter's party affiliation as "unaffiliated"; or

(C) did not previously register.

(2) (a) Any registered voter may designate or change the voter's political party affiliation by complying with the procedures and requirements of this Subsection (2).

(b) A registered voter may designate or change the voter's political party affiliation by filing a signed form with the county clerk that identifies the registered political party with

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which the voter chooses to affiliate, during any period except the following:

(i) the period beginning on the day after the voter registration deadline and continuing through the date of the regular primary election; and

(ii) the period beginning on the day after the voter registration deadline and continuing through the date of the Western States Presidential Primary.

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

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

(1) Except as provided in Subsection (3), the county clerk shall register to vote each individual who registers in person at the county clerk's office during designated office hours if the individual will, on the date of the election, be legally eligible to vote in a voting precinct in the county in accordance with Section 20A-2-101.

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

(a) accept a registration form from each individual who submits a registration form in person at the clerk's office during designated office hours if the individual, on the date of the election, will be legally qualified and entitled to vote in a voting precinct in the county; and

(b) inform the individual that the individual will be registered to vote in the pending election.

(3) If an individual who will be legally qualified and entitled to vote in a voting precinct in the county on the date of an election appears in person, during designated office hours, and submits a registration form on the date of the election or during the 14 calendar days before an election, the county clerk shall:

(a) accept the registration form; and

(b) (i) if it is ~~more than~~ seven or more calendar days before the date of an election:

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

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

(ii) except as provided in Subsection 20A-4-108(5), if it is on the date of an election or

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during the ~~seven~~ six calendar days before an election, inform the individual that the individual will be registered to vote but may not vote in the pending election because the individual registered too late.

Section ~~2~~3. Section **20A-3-304** is amended to read:

20A-3-304. Application for absentee ballot -- Time for filing and voting.

(1) (a) Any registered voter who wishes to vote an absentee ballot may either:

(i) file an absentee ballot application:

(A) on the electronic system maintained by the lieutenant governor under Section 20A-2-206; or

(B) with the appropriate election officer for an official absentee ballot as provided in this section; or

(ii) vote in person at the office of the appropriate election officer as provided in Section 20A-3-306.

(b) A person that collects a completed absentee ballot application from a registered voter shall file the completed absentee ballot application with the appropriate election official before the earlier of:

(i) 14 days after the day on which the registered voter signed the absentee ballot form;

or

(ii) the Thursday before the next election.

(2) As it relates to an absentee ballot application to be filled out entirely by the voter:

(a) except as provided in Subsection (2)(b), the lieutenant governor or election officer shall approve an application form for absentee ballot applications;

(i) in substantially the following form:

"I, _____, a qualified elector, residing at _____ Street, _____ City, _____ County, Utah apply for an official absentee ballot to be voted by me at the election.

Date _____ (month\day\year) Signed _____

Voter"; and

(ii) that asks the voter to indicate whether the voter wishes to maintain absentee voter status:

(A) until the voter requests otherwise at a future date; or

(B) until a date specified by the voter in the application form; and

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(b) the lieutenant governor or election officer shall approve an application form for regular primary elections and for the Western States Presidential Primary;

(i) in substantially the following form:

"I, _____, a qualified elector, residing at _____ Street, _____ City, _____ County, Utah apply for an official absentee ballot for the _____ political party to be voted by me at the primary election.

I understand that I must be affiliated with or authorized to vote the political party's ballot that I request.

Dated _____ (month\day\year) _____ Signed _____

Voter": and

(ii) that asks the voter to indicate whether the voter wishes to maintain absentee voter status:

(A) until the voter requests otherwise at a future date; or

(B) until a date specified by the voter in the application form.

~~[(c)]~~ (3) If requested by the applicant, the election officer shall:

~~[(+)]~~ (a) mail or fax the application form to the absentee voter; or

~~[(+)]~~ (b) deliver the application form to any voter who personally applies for it at the office of the election officer.

~~[(3)]~~ (4) As it relates to an absentee ballot application to be filled out for, and finished and signed by, a voter:

(a) except as provided in Subsection ~~[(3)]~~ (4)(b), the lieutenant governor or election officer shall approve an application form for absentee ballot applications;

(i) in substantially the following form:

"I, _____, a qualified elector, residing at _____ Street, _____ City, _____ County, Utah apply for an official absentee ballot to be voted by me at the election.

I understand that a person that collects this absentee ballot application is required to file it with the appropriate election official before the earlier of fourteen days after the day on which I sign the application or the Thursday before the next election.

This form is provided by (insert name of person or organization).

I have verified that the information on this application is correct.

I understand that I will receive a ballot at the following address: (insert address and an

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adjacent check box);

OR

I request that the ballot be mailed to the following address: (insert blank space for an address and an adjacent check box).

Date _____ (month\day\year) Signed _____

Voter"; and

(ii) that asks the voter to indicate whether the voter wishes to maintain absentee voter status:

(A) until the voter requests otherwise at a future date; or

(B) until a date specified by the voter in the application form; and

(b) the lieutenant governor or election officer shall approve an application form for regular primary elections and for the Western States Presidential Primary;

(i) in substantially the following form:

"I, _____, a qualified elector, residing at _____ Street, _____ City, _____ County, Utah apply for an official absentee ballot for the _____ political party to be voted by me at the primary election.

I understand that I must be affiliated with or authorized to vote the political party's ballot that I request. I understand that a person that collects this absentee ballot application is required to file it with the appropriate election official before the earlier of fourteen days after the day on which I sign the application or the Thursday before the next primary election.

This form is provided by (insert name of person or organization).

I have verified that the information on this application is correct.

I understand that I will receive a ballot at the following address: (insert address and an adjacent check box);

OR

I request that the ballot be mailed to the following address: (insert blank space for an address and an adjacent check box).

Dated _____ (month\day\year) _____ Signed _____

Voter"; and

(ii) that asks the voter to indicate whether the voter wishes to maintain absentee voter status:

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(A) until the voter requests otherwise at a future date; or

(B) until a date specified by the voter in the application form.

~~[(4)]~~ (5) The forms described in Subsections (2) and ~~[(3)]~~ (4) shall contain instructions on how a voter may cancel an absentee ballot application.

~~[(5)]~~ (6) Except as provided in Subsection 20A-3-306(2)(a), a voter who wishes to vote by absentee ballot shall file the application for an absentee ballot with the lieutenant governor or appropriate election officer no later than the Thursday before election day.

~~[(6)]~~ (7) (a) A county clerk ~~[may]~~ shall establish ~~[a permanent]~~ an absentee voter list~~[-~~
~~(b) The clerk shall place on the list]~~ containing the name of ~~[any person]~~ each voter who:

(i) requests ~~[permanent]~~ absentee voter status; and

(ii) meets the requirements of this section.

(b) A county clerk may not remove a voter's name from the list described in Subsection (7)(a) unless:

(i) the voter is no longer listed in the official register;

(ii) the voter cancels the voter's absentee status; or

(iii) the voter's name is removed on the date specified by the voter on the absentee ballot application form.

(c) (i) Each year, the clerk shall mail a questionnaire to each ~~[person]~~ voter whose name is on the absentee voter list.

(ii) The questionnaire shall allow the ~~[absentee person to]~~ voter to:

(A) verify the voter's residence[-]; or

(B) cancel the voter's absentee status.

~~[(iii) The clerk may remove the names of any voter from the absentee voter registration list if:]~~

~~[(A) the voter is no longer listed in the official register; or]~~

~~[(B) the voter fails to verify the voter's residence and absentee status.]~~

(d) The clerk shall provide a copy of the ~~[permanent]~~ absentee voter list to election officers for use in elections.

Section 4. Section 20A-4-108 is amended to read:

20A-4-108. Election day voter registration pilot project.

(1) There is created, beginning on June 1, 2014, and ending on January 1, 2017, an

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election day voter registration pilot project, as described in this section.

(2) A county may participate in the pilot project if the county clerk submits to the lieutenant governor a written application to participate in the pilot project that contains:

(a) the name of the county;

(b) a request that the county be permitted to participate in the pilot project;

(c) an estimate of the extent to which election day voter registration may increase voter participation; and

(d) any other reasons that the county desires to participate in the project.

(3) A municipality may participate in the pilot project for a municipal election if the municipal clerk submits to the lieutenant governor a written application to participate in the pilot project that contains:

(a) the name of the municipality;

(b) a request that the municipality be permitted to participate in the pilot project;

(c) an estimate of the extent to which election day voter registration may increase voter participation; and

(d) any other reasons that the municipality desires to participate in the project.

(4) Within 10 business days after the day on which the lieutenant governor receives an application described in Subsection (2) or (3), the lieutenant governor shall approve the application if:

(a) the application complies with the requirements described in Subsection (2) or (3), as applicable; and

(b) the lieutenant governor determines, based on the information contained in the application, that implementing the pilot project in the county or municipality:

(i) will yield valuable information to determine whether election day voter registration should be implemented on a permanent, statewide basis; and

(ii) will not adversely affect the rights of voters or candidates.

(5) For a county or municipality that is approved by the lieutenant governor to participate in the pilot project, if, under Subsection 20A-2-201(3)(b)(ii), a registration form is submitted to the county clerk on the date of the election or during the [seven] six calendar days before an election, the county clerk shall:

(a) if the person desires to vote in the pending election, inform the person that the

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person must, on election day, register to vote by casting a provisional ballot in accordance with Subsection (10); or

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

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

(ii) inform the person that the person will be registered to vote but may not vote in the pending election because the person registered too late and chose not to register and vote as described in Subsection (5)(a).

(6) For a county or municipality that is approved by the lieutenant governor to participate in the pilot project, if, under Subsection 20A-2-202(3)(a), the county clerk receives a correctly completed by-mail voter registration form that is postmarked after the voter registration deadline, the county clerk shall:

(a) unless the applicant registers on election day by casting a provisional ballot in accordance with Subsection (10), register the applicant for the next election; and

(b) if possible, promptly phone, mail, or email a notice to the applicant before the election, informing the applicant that:

(i) the applicant's registration will not be effective until after the election; and

(ii) the applicant may register to vote on election day by casting a provisional ballot in accordance with Subsection (10).

(7) For a county or municipality that is approved by the lieutenant governor to participate in the pilot project, if, under Subsection 20A-2-204(5)(a), the county clerk receives a correctly completed voter registration form that is dated after the voter registration deadline, the county clerk shall:

(a) unless the applicant registers to vote on election day by casting a provisional ballot in accordance with Subsection (10), register the applicant after the next election; and

(b) if possible, promptly phone, mail, or email a notice to the applicant before the election, informing the applicant that:

(i) the applicant's registration will not be effective until after the election; and

(ii) the applicant may register to vote on election day by casting a provisional ballot in accordance with Subsection (10).

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(8) For a county or municipality that is approved by the lieutenant governor to participate in the pilot project, if, under Subsection 20A-2-205(7)(a), the county clerk receives a correctly completed voter registration form that is dated after the voter registration deadline, the county clerk shall:

(a) unless the applicant registers to vote on election day by casting a provisional ballot in accordance with Subsection (10), register the applicant after the next election; and

(b) if possible, promptly phone, mail, or email a notice to the applicant before the election, informing the applicant that:

(i) the applicant's registration will not be effective until after the election; and

(ii) the applicant may register to vote on election day by casting a provisional ballot in accordance with Subsection (10).

(9) For a county or municipality that is approved by the lieutenant governor to participate in the pilot project, if, under Subsection 20A-2-206(8)(c), an individual applies to register under this section during the six calendar days before an election, the county clerk shall:

(a) if the individual desires to vote in the pending election, inform the individual that the individual must, on election day, register to vote by casting a provisional ballot in accordance with Subsection (10); or

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

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

(ii) inform the individual that the individual is registered to vote but may not vote in the pending election because the individual registered too late and chose not to register and vote as described in Subsection (9)(a).

(10) For a county or municipality that is approved by the lieutenant governor to participate in the pilot project:

(a) the election officer shall take the action described in Subsection (10)(b) in relation to a provisional ballot if the election officer determines that:

(i) the person who voted the ballot is not registered to vote, but is otherwise legally entitled to vote the ballot;

(ii) the ballot that the person voted is identical to the ballot for the precinct in which

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the person resides:

(iii) the information on the ballot is complete; and

(iv) the person provided valid voter identification and proof of residence to the poll

worker:

(b) if a provisional ballot and the person who voted the provisional ballot comply with the requirements described in Subsection (10)(a), the election officer shall:

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

(ii) place the ballot with the absentee ballots, to be counted with those ballots at the

canvass; and

(iii) as soon as reasonably possible, register the person to vote; and

(c) except as provided in Subsection (11), the election officer shall retain a provisional ballot envelope, unopened, for the period specified in Section 20A-4-202, if the election officer determines that the person who voted the ballot:

(i) (A) is not registered to vote in this state; and

(B) is not eligible for registration under Subsection (10); or

(ii) is not legally entitled to vote the ballot that the person voted.

(11) Subsection (10)(c) does not apply if a court orders the election officer to produce or count the provisional ballot.

(12) For a county or municipality that is approved by the lieutenant governor to participate in the pilot project, if, under Subsection 20A-4-107(4), the election officer determines that the person is not registered to vote in this state, that the information on the provisional ballot envelope is complete, and that the provisional ballot and the person who voted the provisional ballot do not comply with the requirements described in Subsection (10)(a), the election officer shall:

(a) consider the provisional ballot envelope a voter registration form for the person's county of residence; and

(b) (i) register the person if the voter's county of residence is within the county; or

(ii) forward the voter registration form to the election officer of the person's county of residence, which election officer shall register the person.

(13) (a) The county clerk of a county that is approved to participate in the pilot project, and the municipal clerk of a municipality that is approved to participate in the pilot project,

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shall provide training for the poll workers of the county or municipality on administering the pilot program.

(b) The lieutenant governor shall, for a county or municipality that is approved to participate in the pilot project, provide information relating to the pilot project in accordance with the provisions of Subsection 67-1a-2(2)(a)(iv).

(14) The lieutenant governor and each county and municipality that is approved by the lieutenant governor to participate in the pilot project shall:

(a) report to the Government Operations Interim Committee, on or before October 31 of each year that the pilot project is in effect, regarding:

(i) the implementation of the pilot project;

(ii) the number of ballots cast by voters who registered on election day;

(iii) any difficulties resulting from the pilot project; and

(iv) whether, in the opinion of the lieutenant governor, the county, or the municipality, the state would benefit from implementing election day voter registration permanently and on a statewide basis; and

(b) on or before December 31, 2016, report to the Legislative Management Committee regarding the matters described in Subsection (14)(a).

(15) During the 2016 interim, the Government Operations Interim Committee shall study and make a recommendation to the Legislature regarding whether to implement statewide election day voter registration on a permanent, statewide basis.