

EARLY VOTING AMENDMENTS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: John R. Westwood

Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill permits an election officer to reduce the early voting period.

Highlighted Provisions:

This bill:

- ▶ permits a municipal clerk and, for a county where an election is conducted entirely by mail, a county clerk, to reduce the early voting period;
- ▶ makes conforming changes to certain deadlines; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

20A-3-202, as last amended by Laws of Utah 2012, Chapter 251

20A-3-202.3, as last amended by Laws of Utah 2015, Chapter 19

20A-3-601, as last amended by Laws of Utah 2017, Chapter 58

20A-3-604, as last amended by Laws of Utah 2017, Chapters 251, 267 and last amended by Coordination Clause, Laws of Utah 2017, Chapter 267

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

Section 1. Section **20A-3-202** is amended to read:

30 **20A-3-202. Challenges to a voter's eligibility -- Basis for challenge -- Procedures.**

31 (1) A person's right to vote may be challenged because:

32 (a) the voter is not the person whose name appears in the official register or under
33 which name the right to vote is claimed;

34 (b) the voter is not a resident of Utah;

35 (c) the voter is not a citizen of the United States;

36 (d) the voter has not or will not have resided in Utah for 30 days immediately before
37 the date of the election;

38 (e) the voter's principal place of residence is not in the voting precinct claimed;

39 (f) the voter's principal place of residence is not in the geographic boundaries of the
40 election area;

41 (g) the voter has already voted in the election;

42 (h) the voter is not at least 18 years of age;

43 (i) the voter has been convicted of a misdemeanor for an offense under this title and the
44 voter's right to vote in an election has not been restored under Section 20A-2-101.3;

45 (j) the voter is a convicted felon and the voter's right to vote in an election has not been
46 restored under Section 20A-2-101.5; or

47 (k) in a regular primary election or in the Western States Presidential Primary, the voter
48 does not meet the political party affiliation requirements for the ballot the voter seeks to vote.

49 (2) A person who challenges another person's right to vote at an election shall do so
50 according to the procedures and requirements of:

51 (a) Section 20A-3-202.3, for challenges issued in writing more than ~~[21]~~ 35 days
52 before the ~~[day on which voting commences]~~ date of the election; or

53 (b) Section 20A-3-202.5, for challenges issued in person at the time of voting.

54 Section 2. Section 20A-3-202.3 is amended to read:

55 **20A-3-202.3. Pre-election challenges to a voter's eligibility in writing -- Procedure**
56 **-- Form of challenge.**

57 (1) (a) A person may challenge the right to vote of a person whose name appears on the

58 official register by filing with the election officer, during regular business hours and ~~[not]~~ no
59 later than ~~[21]~~ 35 days before the date ~~[that early voting commences]~~ of the election, a written
60 statement that:

- 61 (i) lists the name and address of the person filing the challenge;
62 (ii) for each voter who is challenged:
63 (A) identifies the name of the challenged voter;
64 (B) lists the last known address or telephone number of the challenged voter;
65 (C) provides the basis for the challenge, as provided under Section 20A-3-202;
66 (D) provides facts and circumstances supporting the basis provided; and
67 (E) may include supporting documents, affidavits, or other evidence; and

68 (iii) includes a signed affidavit, which is subject to penalties of perjury, swearing that:
69 (A) the filer exercised due diligence to personally verify the facts and circumstances
70 establishing the basis for the challenge; and

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

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

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

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

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

81 (3) Upon receipt of a challenge that meets the requirements for filing under this
82 section, the election officer shall, at least ~~[14]~~ 28 days before the ~~[day on which early voting~~
83 ~~commences]~~ date of the election, attempt to notify each challenged voter:

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

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

88 (c) that the challenged voter may submit information, a sworn statement, supporting
89 documents, affidavits, or other evidence supporting the challenged voter's right to vote in the
90 election to the election officer no later than ~~[seven]~~ 21 days before the ~~[day on which early~~
91 ~~voting commences]~~ date of the election.

92 (4) (a) ~~[Before the day on which early voting commences]~~ No later than 15 days before
93 the date of the election, the election officer shall determine whether each challenged voter is
94 eligible to vote.

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

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

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

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

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

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

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

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

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

114 (7) A challenged voter may register to vote or change the location of the voter's voter
115 registration if otherwise legally entitled to do so.

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

117 Section 3. Section **20A-3-601** is amended to read:

118 **20A-3-601. Early voting.**

119 (1) ~~[(a)]~~ An individual who is registered to vote may vote before the election date in
120 accordance with this section.

121 ~~[(b) An individual who is not registered to vote may register to vote and vote before the
122 election date in accordance with this section if the individual:]~~

123 ~~[(i) is otherwise legally entitled to vote the ballot in a jurisdiction that is approved by
124 the lieutenant governor to participate in the pilot project described in Section 20A-4-108; and]~~

125 ~~[(ii) casts a provisional ballot in accordance with Section 20A-4-108.]~~

126 (2) Except as provided in Section 20A-1-308 or Subsection (3), the early voting period
127 shall:

128 (a) begin on the date that is 14 days before the date of the election; and

129 (b) continue through the Friday before the election if the election date is a Tuesday.

130 (3) (a) An election officer may extend the end of the early voting period to the day
131 before the election date if the election officer provides notice of the extension in accordance
132 with Section 20A-3-604.

133 (b) For a municipal election, the municipal clerk may reduce the early voting period
134 described in this section if:

135 (i) the municipal clerk conducts early voting on at least four days;

136 (ii) the early voting days are within the period beginning on the date that is 14 days
137 before the date of the election and ending on the day before the election; and

138 (iii) the municipal clerk provides notice of the reduced early voting period in
139 accordance with Section 20A-3-604.

140 (c) For a county election that is conducted entirely by mail, the county clerk may
141 reduce the early voting period described in this section if:

- 142 (i) the county clerk conducts early voting on at least four days;
- 143 (ii) the early voting days are within the period beginning on the date that is 14 days
- 144 before the date of the election and ending on the day before the election; and
- 145 (iii) the county clerk provides notice of the reduced early voting period in accordance
- 146 with Section 20A-3-604.

147 (4) Except as provided in Section 20A-1-308, during the early voting period, the
 148 election officer:

149 (a) for a local special election, a municipal primary election, and a municipal general
 150 election:

151 (i) shall conduct early voting on a minimum of four days during each week of the early
 152 voting period; and

153 (ii) shall conduct early voting on the last day of the early voting period; and

154 (b) for all other elections:

155 (i) shall conduct early voting on each weekday; and

156 (ii) may elect to conduct early voting on a Saturday, Sunday, or holiday.

157 (5) Except as specifically provided in this Part 6, Early Voting, or Section 20A-1-308,
 158 early voting shall be administered according to the requirements of this title.

159 Section 4. Section 20A-3-604 is amended to read:

160 **20A-3-604. Notice of time and place of early voting.**

161 (1) Except as provided in Section 20A-1-308 or Subsection 20A-3-603(2), the election
 162 officer shall, at least [five] 19 days before the [~~day on which early voting begins~~] date of the
 163 election, give notice of the dates, times, and locations of early voting by:

164 (a) publishing the notice:

165 (i) in one issue of a newspaper of general circulation in the county; and

166 (ii) in accordance with Section 45-1-101; and

167 (b) posting the notice at each early voting polling place.

168 (2) The election officer shall include in the notice described in Subsection (1)(a):

169 (a) the address of the Statewide Electronic Voter Information Website and, if available,

170 the address of the election officer's website, with a statement indicating that the election officer
171 will post on the website the location of each early voting polling place, including any changes
172 to the location of an early voting polling place and the location of additional early voting
173 polling places; and

174 (b) a phone number that a voter may call to obtain information regarding the location
175 of an early voting polling place.