

MUNICIPAL OFFICE AND LOCAL ELECTIONS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jon Hawkins

Senate Sponsor: Luz Escamilla

LONG TITLE

General Description:

This bill amends provisions relating to municipal office and elections administered by an election officer other than a county clerk.

Highlighted Provisions:

This bill:

- ▶ subject to the same exceptions to requirements to reside in a municipality, requires that an elected officer of a municipality reside in the district that the elected officer represents;

- ▶ provides that a municipal elected officer who fails to comply with district residency requirements described in this bill has vacated the elected office;

- ▶ requires that an individual who fills a vacancy must comply with the district residency requirements described in this bill; and

- ▶ provides that early voting registration or same day voting registration is not permitted for an election administered by an election officer other than a county clerk if there is not a polling location for early voting or voting on election day.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:



28 AMENDS:

29 **10-3-301**, as last amended by Laws of Utah 2019, Chapters 258 and 305

30 **20A-2-201**, as last amended by Laws of Utah 2018, Chapters 206 and 281

31 **20A-2-204**, as last amended by Laws of Utah 2019, Chapters 136 and 255

32 **20A-2-206**, as last amended by Laws of Utah 2018, Chapter 206

33 **20A-2-207**, as enacted by Laws of Utah 2018, Chapter 206

34 **20A-3-601**, as last amended by Laws of Utah 2018, Chapters 195, 206, and 281



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

37 Section 1. Section **10-3-301** is amended to read:

38 **10-3-301. Notice -- Eligibility and residency requirements for elected municipal**
39 **office -- Mayor and recorder limitations.**

40 (1) As used in this section:

41 (a) "Absent" means that an elected municipal officer fails to perform official duties,
42 including the officer's failure to attend each regularly scheduled meeting that the officer is
43 required to attend.

44 (b) "Principal place of residence" means the same as that term is defined in Section
45 **20A-2-105**.

46 (c) "Secondary residence" means a place where an individual resides other than the
47 individual's principal place of residence.

48 (2) (a) On or before May 1 in a year in which there is a municipal general election, the
49 municipal clerk shall publish a notice that identifies:

50 (i) the municipal offices to be voted on in the municipal general election; and

51 (ii) the dates for filing a declaration of candidacy for the offices identified under

52 Subsection (2)(a)(i).

53 (b) The municipal clerk shall publish the notice described in Subsection (2)(a):

54 (i) on the Utah Public Notice Website established by Section **63F-1-701**; and

55 (ii) in at least one of the following ways:

56 (A) at the principal office of the municipality;

57 (B) in a newspaper of general circulation within the municipality at least once a week

58 for two successive weeks in accordance with Section **45-1-101**;

- 59 (C) in a newsletter produced by the municipality;
- 60 (D) on a website operated by the municipality; or
- 61 (E) with a utility enterprise fund customer's bill.

62 (3) (a) An individual who files a declaration of candidacy for a municipal office shall
63 comply with the requirements described in Section 20A-9-203.

64 (b) (i) Except as provided in Subsection (3)(b)(ii), the city recorder or town clerk of
65 each municipality shall maintain office hours 8 a.m. to 5 p.m. on the dates described in
66 Subsections 20A-9-203(3)(a)(i) and (c)(i) unless the date occurs on a:

- 67 (A) Saturday or Sunday; or
- 68 (B) state holiday as listed in Section 63G-1-301.

69 (ii) If on a regular basis a city recorder or town clerk maintains an office schedule that
70 is less than 40 hours per week, the city recorder or town clerk may comply with Subsection
71 (3)(b)(i) without maintaining office hours by:

72 (A) posting the recorder's or clerk's contact information, including a phone number and
73 email address, on the recorder's or clerk's office door, the main door to the municipal offices,
74 and, if available, on the municipal website; and

75 (B) being available from 8 a.m. to 5 p.m. on the dates described in Subsection (3)(b)(i),
76 via the contact information described in Subsection ~~(2)~~(3)(b)(ii)(A).

77 (4) An individual elected to municipal office shall be a registered voter in the
78 municipality in which the individual is elected.

79 (5) (a) Each elected officer of a municipality shall maintain a principal place of
80 residence within the municipality, and within the district that the elected officer represents,
81 during the officer's term of office.

82 (b) Except as provided in Subsection (6), an elected municipal office is automatically
83 vacant if the officer elected to the municipal office, during the officer's term of office:

84 (i) establishes a principal place of residence outside the [municipality] district that the
85 elected officer represents;

86 (ii) resides at a secondary residence outside the [municipality] district that the elected
87 officer represents for a continuous period of more than 60 days while still maintaining a
88 principal place of residence within the [municipality] district;

89 (iii) is absent from the [municipality] district that the elected officer represents for a

90 continuous period of more than 60 days; or

91 (iv) fails to respond to a request, within 30 days after the day on which the elected
92 officer receives the request, from the county clerk or the lieutenant governor seeking
93 information to determine the officer's residency.

94 (6) (a) Notwithstanding Subsection (5), if an elected municipal officer obtains the
95 consent of the municipal legislative body in accordance with Subsection (6)(b) before the
96 expiration of the 60-day period described in Subsection (5)(b)(ii) or (iii), the officer may:

97 (i) reside at a secondary residence outside the [~~municipality~~] district that the elected
98 officer represents while still maintaining a principal place of residence within the
99 [~~municipality~~] district for a continuous period of up to one year during the officer's term of
100 office; or

101 (ii) be absent from the [~~municipality~~] district that the elected officer represents for a
102 continuous period of up to one year during the officer's term of office.

103 (b) At a public meeting, the municipal legislative body may give the consent described
104 in Subsection (6)(a) by majority vote after taking public comment regarding:

105 (i) whether the legislative body should give the consent; and

106 (ii) the length of time to which the legislative body should consent.

107 (7) (a) The mayor of a municipality may not also serve as the municipal recorder or
108 treasurer.

109 (b) The recorder of a municipality may not also serve as the municipal treasurer.

110 (c) An individual who holds a county elected office may not, at the same time, hold a
111 municipal elected office.

112 (d) The restriction described in Subsection (7)(c) applies regardless of whether the
113 individual is elected to the office or appointed to fill a vacancy in the office.

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

115 **20A-2-201. Registering to vote at office of county clerk.**

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

120 (2) If an individual who is registering to vote submits a registration form in person at

121 the office of the county clerk during designated office hours, during the period beginning on
122 the date after the voter registration deadline and ending on the date that is 15 calendar days
123 before the date of the election, the county clerk shall:

124 (a) accept the form if the individual, on the date of the election, will be legally
125 qualified and entitled to vote in a voting precinct in the county; and

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

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

132 (a) accept the registration form; and

133 (b) except as provided in Subsection 20A-2-207(6):

134 (i) if the individual submits the registration form seven or more calendar days before
135 the date of an election, inform the individual that:

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

137 (B) for the pending election, the individual must vote on the day of the election or by
138 provisional ballot, under Section 20A-2-207, during the early voting period described in
139 Section 20A-3-601, because the individual registered late; or

140 (ii) if the individual submits the registration form on the date of an election or during
141 the six calendar days before an election, inform the individual:

142 (A) of each manner still available to the individual to timely register to vote in the
143 current election; and

144 (B) that, if the individual does not timely register in a manner described in Subsection
145 (3)(b)(ii)(A), the individual will be registered to vote but may not vote in the pending election
146 because the individual registered late.

147 Section 3. Section 20A-2-204 is amended to read:

148 **20A-2-204. Registering to vote when applying for or renewing a driver license.**

149 (1) As used in this section, "voter registration form" means, when an individual named
150 on a qualifying form, as defined in Section 20A-2-108, answers "yes" to the question described
151 in Subsection 20A-2-108(2)(a), the information on the qualifying form that can be used for

152 voter registration purposes.

153 (2) A citizen who is qualified to vote may register to vote, and a citizen who is
154 qualified to preregister to vote may preregister to vote, by answering "yes" to the question
155 described in Subsection 20A-2-108(2)(a) and completing the voter registration form.

156 (3) The Driver License Division shall:

157 (a) assist an individual in completing the voter registration form unless the individual
158 refuses assistance;

159 (b) electronically transmit each address change to the lieutenant governor within five
160 days after the day on which the division receives the address change; and

161 (c) within five days after the day on which the division receives a voter registration
162 form, electronically transmit the form to the Office of the Lieutenant Governor, including the
163 following for the individual named on the form:

164 (i) the name, date of birth, driver license or state identification card number, last four
165 digits of the social security number, Utah residential address, place of birth, and signature;

166 (ii) a mailing address, if different from the individual's Utah residential address;

167 (iii) an email address and phone number, if available;

168 (iv) the desired political affiliation, if indicated; and

169 (v) an indication of whether the individual requested that the individual's voter
170 registration record be classified as a private record under Subsection 20A-2-108(2)(c).

171 (4) Upon receipt of an individual's voter registration form from the Driver License
172 Division under Subsection (3), the lieutenant governor shall:

173 (a) enter the information into the statewide voter registration database; and

174 (b) if the individual requests on the individual's voter registration form that the
175 individual's voter registration record be classified as a private record, classify the individual's
176 voter registration record as a private record.

177 (5) The county clerk of an individual whose information is entered into the statewide
178 voter registration database under Subsection (4) shall:

179 (a) ensure that the individual meets the qualifications to be registered or preregistered
180 to vote; and

181 (b) (i) if the individual meets the qualifications to be registered to vote:

182 (A) ensure that the individual is assigned to the proper voting precinct; and

- 183 (B) send the individual the notice described in Section 20A-2-304; or
184 (ii) if the individual meets the qualifications to be preregistered to vote, process the
185 form in accordance with the requirements of Section 20A-2-101.1.
- 186 (6) (a) When the county clerk receives a correctly completed voter registration form
187 under this section, the clerk shall:
- 188 (i) comply with the applicable provisions of this Subsection (6); or
189 (ii) if the individual is preregistering to vote, comply with Section 20A-2-101.1.
- 190 (b) If the county clerk receives a correctly completed voter registration form under this
191 section during the period beginning on the date after the voter registration deadline and ending
192 at 5 p.m. on the date that is 15 calendar days before the date of an election, the county clerk
193 shall:
- 194 (i) accept the voter registration form; and
195 (ii) unless the individual is preregistering to vote, inform the individual that the
196 individual is registered to vote in the pending election.
- 197 (c) If the county clerk receives a correctly completed voter registration form under this
198 section during the period beginning on the date that is 14 calendar days before the election and
199 ending at 5 p.m. on the date that is seven calendar days before the election, the county clerk
200 shall:
- 201 (i) accept the voter registration form; and
202 (ii) except as provided in Subsection 20A-2-207(6), and unless the individual is
203 preregistering to vote, inform the individual that:
- 204 (A) the individual is registered to vote in the pending election; and
205 (B) for the pending election, the individual must vote on the day of the election or by
206 provisional ballot, under Section 20A-2-207, during the early voting period described in
207 Section 20A-3-601 because the individual registered late.
- 208 (d) If the county clerk receives a correctly completed voter registration form under this
209 section during the six calendar days before an election, the county clerk shall:
- 210 (i) accept the application for registration of the individual; and
211 (ii) unless the individual is preregistering to vote, inform the individual:
212 (A) of each manner still available to the individual to timely register to vote in the
213 current election; and

214 (B) that, if the individual does not timely register in a manner described in Subsection
215 (6)(d)(ii)(A), the individual is registered to vote but may not vote in the pending election
216 because the individual registered late.

217 (7) (a) If the county clerk determines that an individual's voter registration form
218 received from the Driver License Division is incorrect because of an error, because the form is
219 incomplete, or because the individual does not meet the qualifications to be registered to vote,
220 the county clerk shall mail notice to the individual stating that the individual has not been
221 registered or preregistered because of an error, because the form is incomplete, or because the
222 individual does not meet the qualifications to be registered to vote.

223 (b) If a county clerk believes, based upon a review of a voter registration form, that an
224 individual, who knows that the individual is not legally entitled to register or preregister to
225 vote, may be intentionally seeking to register or preregister to vote, the county clerk shall refer
226 the form to the county attorney for investigation and possible prosecution.

227 Section 4. Section **20A-2-206** is amended to read:

228 **20A-2-206. Electronic registration -- Requests for absentee ballot application.**

229 (1) The lieutenant governor may create and maintain an electronic system that is
230 publicly available on the Internet for an individual to apply for voter registration or
231 preregistration and for an individual to request an absentee ballot.

232 (2) An electronic system for voter registration or preregistration shall require:

233 (a) that an applicant have a valid driver license or identification card, issued under Title
234 53, Chapter 3, Uniform Driver License Act, that reflects the applicant's current principal place
235 of residence;

236 (b) that the applicant provide the information required by Section **20A-2-104**, except
237 that the applicant's signature may be obtained in the manner described in Subsections (2)(d)
238 and (4);

239 (c) that the applicant attest to the truth of the information provided; and

240 (d) that the applicant authorize the lieutenant governor's and county clerk's use of the
241 applicant's:

242 (i) driver license or identification card signature, obtained under Title 53, Chapter 3,
243 Uniform Driver License Act, for voter registration purposes; or

244 (ii) signature on file in the lieutenant governor's statewide voter registration database

245 developed under Section 20A-2-109.

246 (3) Notwithstanding Section 20A-2-104, an applicant using the electronic system for
247 voter registration or preregistration created under this section is not required to complete a
248 printed registration form.

249 (4) A system created and maintained under this section shall provide the notices
250 concerning a voter's presentation of identification contained in Subsection 20A-2-104(1).

251 (5) The lieutenant governor shall:

252 (a) obtain a digital copy of the applicant's driver license or identification card signature
253 from the Driver License Division; or

254 (b) ensure that the applicant's signature is already on file in the lieutenant governor's
255 statewide voter registration database developed under Section 20A-2-109.

256 (6) The lieutenant governor shall send the information to the county clerk for the
257 county in which the applicant's principal place of residence is found for further action as
258 required by Section 20A-2-304 after:

259 (a) receiving all information from an applicant; and

260 (b) (i) receiving all information from the Driver License Division; or

261 (ii) ensuring that the applicant's signature is already on file in the lieutenant governor's
262 statewide voter registration database developed under Section 20A-2-109.

263 (7) The lieutenant governor may use additional security measures to ensure the
264 accuracy and integrity of an electronically submitted voter registration.

265 (8) If an individual applies to register under this section during the period beginning on
266 the date after the voter registration deadline and ending on the date that is 15 calendar days
267 before the date of an election, the county clerk shall, unless the individual is preregistering to
268 vote:

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

271 (b) inform the individual that the individual is registered to vote in the pending
272 election.

273 (9) If an individual applies to register under this section during the period beginning on
274 the date that is 14 calendar days before the election and ending on the date that is seven
275 calendar days before the election, the county clerk shall, unless the individual is preregistering

276 to vote:

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

279 (b) except as provided in Subsection 20A-2-207(6), inform the individual that:

280 (i) the individual is registered to vote in the pending election; and

281 (ii) for the pending election, the individual must vote on the day of the election or by
282 provisional ballot, under Section 20A-2-207, during the early voting period described in
283 Section 20A-3-601 because the individual registered late.

284 (10) If an individual applies to register under this section during the six calendar days
285 before an election, the county clerk shall:

286 (a) if the individual is preregistering to vote, comply with Section 20A-2-101.1; or

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

289 (ii) unless the individual timely registers to vote in the current election in a manner that
290 permits registration after the voter registration deadline, inform the individual:

291 (A) of each manner still available to the individual to timely register to vote in the
292 current election; and

293 (B) that, if the individual does not timely register in a manner described in Subsection
294 (10)(b)(ii)(A), the individual is registered to vote but may not vote in the pending election
295 because the individual registered late.

296 (11) (a) A registered voter may file an application for an absentee ballot in accordance
297 with Section 20A-3-304 on the electronic system for voter registration established under this
298 section.

299 (b) The lieutenant governor shall provide a means by which a registered voter shall
300 sign the application form as provided in Section 20A-3-304.

301 Section 5. Section 20A-2-207 is amended to read:

302 **20A-2-207. Registration by provisional ballot.**

303 (1) ~~Art~~ Except as provided in Subsection (6), an individual who is not registered to
304 vote may register to vote, and vote, on election day or during the early voting period described
305 in Section 20A-3-601, by voting a provisional ballot, if:

306 (a) the individual is otherwise legally entitled to vote the ballot;

307 (b) the ballot is identical to the ballot for the precinct in which the individual resides;
308 (c) the information on the provisional ballot form is complete; and
309 (d) the individual provides valid voter identification and proof of residence to the poll
310 worker.

311 (2) If a provisional ballot and the individual who voted the ballot comply with the
312 requirements described in Subsection (1), the election officer shall:

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

314 (b) place the ballot with the absentee ballots, to be counted with those ballots at the
315 canvass; and

316 (c) as soon as reasonably possible, register the individual to vote.

317 (3) Except as provided in Subsection (4), the election officer shall retain a provisional
318 ballot form, uncounted, for the period specified in Section 20A-4-202, if the election officer
319 determines that the individual who voted the ballot:

320 (a) is not registered to vote and is not eligible for registration under this section; or

321 (b) is not legally entitled to vote the ballot that the individual voted.

322 (4) Subsection (3) does not apply if a court orders the election officer to produce or
323 count the provisional ballot.

324 (5) The lieutenant governor shall report to the Government Operations Interim
325 Committee on or before October 31, 2018, and on or before October 31, 2020, regarding:

326 (a) implementation of registration by provisional ballot, as described in this section, on
327 a statewide basis;

328 (b) any difficulties resulting from the implementation described in Subsection (5)(a);

329 (c) the effect of registration by provisional ballot on voter participation in Utah;

330 (d) the number of ballots cast by voters who registered by provisional ballot:

331 (i) during the early voting period described in Section 20A-3-601; and

332 (ii) on election day; and

333 (e) suggested changes in the law relating to registration by provisional ballot.

334 (6) For an election administered by an election officer other than a county clerk:

335 (a) if the election officer does not operate a polling location to allow early voting, the
336 individual may not register to vote, under this section, during an early voting period; and

337 (b) if the election officer does not operate a polling location on election day, the

338 individual may not register to vote, under this section, on election day.

339 Section 6. Section **20A-3-601** is amended to read:

340 **20A-3-601. Early voting.**

341 (1) (a) An individual who is registered to vote may vote before the election date in
342 accordance with this section.

343 (b) [~~An~~] Except as provided in Subsection 20A-2-207(6), an individual who is not
344 registered to vote may register to vote and vote before the election date in accordance with this
345 section if the individual:

- 346 (i) is otherwise legally entitled to vote the ballot; and
- 347 (ii) casts a provisional ballot in accordance with Section 20A-2-207.

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

- 350 (a) begin on the date that is 14 days before the date of the election; and
- 351 (b) continue through the Friday before the election if the election date is a Tuesday.

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

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

- 357 (i) the municipal clerk conducts early voting on at least four days;
- 358 (ii) the early voting days are within the period beginning on the date that is 14 days
359 before the date of the election and ending on the day before the election; and

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

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

- 364 (i) the county clerk conducts early voting on at least four days;
- 365 (ii) the early voting days are within the period beginning on the date that is 14 days
366 before the date of the election and ending on the day before the election; and

367 (iii) the county clerk provides notice of the reduced early voting period in accordance
368 with Section 20A-3-604.

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

371 (a) for a local special election, a municipal primary election, and a municipal general
372 election:

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

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

376 (b) for all other elections:

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

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

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