

HB0221S01 compared with HB0221

~~text~~ shows text that was in HB0221 but was deleted in HB0221S01.

text shows text that was not in HB0221 but was inserted into HB0221S01.

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Representative Jon Hawkins proposes the following substitute bill:

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

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- ▶ 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 }~~ This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

- 10-3-301**, as last amended by Laws of Utah 2019, Chapters 258 and 305
- 20A-2-201**, as last amended by Laws of Utah 2018, Chapters 206 and 281
- 20A-2-204**, as last amended by Laws of Utah 2019, Chapters 136 and 255
- 20A-2-206**, as last amended by Laws of Utah 2018, Chapter 206
- 20A-2-207**, as enacted by Laws of Utah 2018, Chapter 206
- 20A-3-601**, as last amended by Laws of Utah 2018, Chapters 195, 206, and 281

Utah Code Sections Affected by Coordination Clause:

- 20A-2-201**, as last amended by Laws of Utah 2018, Chapters 206 and 281
- 20A-2-204**, as last amended by Laws of Utah 2019, Chapters 136 and 255
- 20A-2-205**, as last amended by Laws of Utah 2019, Chapter 255
- 20A-2-206**, as last amended by Laws of Utah 2018, Chapter 206

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

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

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

(1) As used in this section:

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

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

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

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

- (i) the municipal offices to be voted on in the municipal general election; and
- (ii) the dates for filing a declaration of candidacy for the offices identified under

Subsection (2)(a)(i).

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

- (i) on the Utah Public Notice Website established by Section 63F-1-701; and
- (ii) in at least one of the following ways:

(A) at the principal office of the municipality;

(B) in a newspaper of general circulation within the municipality at least once a week for two successive weeks in accordance with Section 45-1-101;

(C) in a newsletter produced by the municipality;

(D) on a website operated by the municipality; or

(E) with a utility enterprise fund customer's bill.

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

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

(A) Saturday or Sunday; or

(B) state holiday as listed in Section 63G-1-301.

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

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

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

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

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

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

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

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

(iii) is absent from the [municipality] district that the elected officer represents for a continuous period of more than 60 days; or

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

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

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

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

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

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

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

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

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treasurer.

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

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

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

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 who is registering to vote submits a registration form in person at the office of the county clerk during designated office hours, 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 the form 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 is registering to vote and 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) except as provided in Subsection 20A-2-207(6):

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

(A) 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 or by provisional ballot, under Section 20A-2-207, during the early voting period described in

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Section 20A-3-601, because the individual registered late; or

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

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

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

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

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

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

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

(3) The Driver License Division shall:

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

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

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

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

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

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

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

(v) an indication of whether the individual requested that the individual's voter

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registration record be classified as a private record under Subsection 20A-2-108(2)(c).

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

- (a) enter the information into the statewide voter registration database; and
- (b) if the individual requests on the individual's voter registration form that the individual's voter registration record be classified as a private record, classify the individual's voter registration record as a private record.

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

- (a) ensure that the individual meets the qualifications to be registered or preregistered to vote; and
- (b) (i) if the individual meets the qualifications to be registered to vote:
 - (A) ensure that the individual is assigned to the proper voting precinct; and
 - (B) send the individual the notice described in Section 20A-2-304; or
- (ii) if the individual meets the qualifications to be preregistered to vote, process the form in accordance with the requirements of Section 20A-2-101.1.

(6) (a) When the county clerk receives a correctly completed voter registration form under this section, the clerk shall:

- (i) comply with the applicable provisions of this Subsection (6); or
 - (ii) if the individual is preregistering to vote, comply with Section 20A-2-101.1.
- (b) If the county clerk receives a correctly completed voter registration form under this section during the period beginning on the date after the voter registration deadline and ending at 5 p.m. on the date that is 15 calendar days before the date of an election, the county clerk shall:
- (i) accept the voter registration form; and
 - (ii) unless the individual is preregistering to vote, inform the individual that the individual is registered to vote in the pending election.

(c) If the county clerk receives a correctly completed voter registration form under this section during the period beginning on the date that is 14 calendar days before the election and ending at 5 p.m. on the date that is seven calendar days before the election, the county clerk shall:

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(i) accept the voter registration form; and

(ii) except as provided in Subsection 20A-2-207(6), and unless the individual is preregistering to vote, inform the individual that:

(A) 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 or by provisional ballot, under Section 20A-2-207, during the early voting period described in Section 20A-3-601 because the individual registered late.

(d) If the county clerk receives a correctly completed voter registration form under this section during the six calendar days before an election, the county clerk shall:

(i) accept the application for registration of the individual; and

(ii) unless the individual is preregistering to vote, inform the individual:

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) signature on file in the lieutenant governor's statewide voter registration database developed under Section 20A-2-109.

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

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

(5) The lieutenant governor shall:

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

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

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

(a) receiving all information from an applicant; and

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

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

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

(8) If an individual applies to register under this section 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 an election, the county clerk shall, unless the individual is preregistering to vote:

(a) 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

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

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

(a) 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

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

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

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

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

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

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

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

(B) that, if the individual does not timely register in a manner described in Subsection

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(10)(b)(ii)(A), the individual is registered to vote but may not vote in the pending election because the individual registered late.

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

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

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

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

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

- (a) the individual is otherwise legally entitled to vote the ballot;
- (b) the ballot is identical to the ballot for the precinct in which the individual resides;
- (c) the information on the provisional ballot form is complete; and
- (d) the individual provides valid voter identification and proof of residence to the poll

worker.

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

- (a) consider the provisional ballot a voter registration form;
- (b) place the ballot with the absentee ballots, to be counted with those ballots at the

canvass; and

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

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

- (a) is not registered to vote and is not eligible for registration under this section; or
- (b) is not legally entitled to vote the ballot that the individual voted.

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

- (5) The lieutenant governor shall report to the Government Operations Interim

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Committee on or before October 31, 2018, and on or before October 31, 2020, regarding:

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

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

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

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

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

(ii) on election day; and

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

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

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

(b) if the election officer does not operate a polling location on election day, the individual may not register to vote, under this section, on election day.

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

20A-3-601. Early voting.

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

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

(i) is otherwise legally entitled to vote the ballot; and

(ii) casts a provisional ballot in accordance with Section 20A-2-207.

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

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

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

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

(b) For a municipal election, the municipal clerk may reduce the early voting period

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described in this section if:

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

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

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

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

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

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

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

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

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

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

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

(b) for all other elections:

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

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

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

Section 7. Coordinating H.B. 221 with H.B. 36 -- substantive and technical changes.

If this H.B. 221 and H.B. 36, Election Amendments, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication as follows:

(1) by not making the changes to Section 20A-2-201 in this H.B. 221;

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(2) amend Subsection 20A-2-201(3) in H.B. 36 by inserting ", except as provided in Subsection 20A-2-207(6)," before the word "inform":

(3) by not making the changes to Section 20A-2-204 in this H.B. 221;

(4) amend Subsection 20A-2-204(6)(c)(iii) in H.B. 36 by inserting "and except as provided in Subsection 20A-2-207(6)," before the word "inform":

(5) amend Subsection 20A-2-205(7)(b) in H.B. 36 by inserting "except as provided in Subsection 20A-2-207(6)," before the words "if possible":

(6) by not making the changes to Section 20A-2-206 in this H.B. 221; and

(7) amend Subsection 20A-2-206(9)(b) in H.B. 36 by inserting "except as provided in Subsection 20A-2-207(6)," before the words "if possible".