

VOTER ACCESSIBILITY AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Matthew H. Gwynn

Senate Sponsor: _____

LONG TITLE

General Description:

This bill makes changes to the Election Code related to voting accessibility.

Highlighted Provisions:

This bill:

- ▶ requires an election officer to provide an accessible voting option for a voter with a disability;
- ▶ requires the director of elections to make rules regarding signature verification for individuals who are unable to sign their name consistently due to a disability; and
- ▶ requires that election notices include instructions for how a voter with a disability may obtain information on voting in an accessible manner.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

20A-3a-202, as last amended by Laws of Utah 2021, Chapter 100

20A-3a-401, as renumbered and amended by Laws of Utah 2020, Chapter 31

20A-5-101, as last amended by Laws of Utah 2021, First Special Session, Chapter 15



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

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

30 **20A-3a-202. Conducting election by mail.**

31 (1) Except as otherwise provided for an election conducted entirely by mail under
32 Section [20A-7-609.5](#), an election officer shall administer an election primarily by mail, in
33 accordance with this section.

34 (2) An election officer who administers an election:

35 (a) shall in accordance with Subsection (3), no sooner than 21 days before election day
36 and no later than seven days before election day, mail to each active voter within a voting
37 precinct:

38 (i) a manual ballot;

39 (ii) a return envelope;

40 (iii) instructions for returning the ballot that include an express notice about any
41 relevant deadlines that the voter must meet in order for the voter's vote to be counted;

42 (iv) for an election administered by a county clerk, information regarding the location
43 and hours of operation of any election day voting center at which the voter may vote or a
44 website address where the voter may view this information;

45 (v) for an election administered by an election officer other than a county clerk, if the
46 election officer does not operate a polling location or an election day voting center, a warning,
47 on a separate page of colored paper in bold face print, indicating that if the voter fails to follow
48 the instructions included with the ballot, the voter will be unable to vote in that election
49 because there will be no polling place for the voting precinct on the day of the election; and

50 (vi) after May 1, 2022, instructions on how a voter may sign up to receive electronic
51 ballot status notifications via the ballot tracking system described in Section [20A-3a-401.5](#);

52 [~~and~~]

53 (b) may not mail a ballot under this section to:

54 (i) an inactive voter, unless the inactive voter requests a manual ballot; or

55 (ii) a voter whom the election officer is prohibited from sending a ballot under

56 Subsection (10)(c)(ii)~~[-]~~; and

57 (c) shall:

58 (i) provide a method of accessible voting to a voter with a disability who is not able to

59 vote by mail; and

60 (ii) include, on the election officer's website and with each ballot mailed, instructions
61 regarding how a voter described in Subsection (2)(c)(i) may vote.

62 (3) (a) An election officer who mails a manual ballot under Subsection (2) shall mail
63 the manual ballot to the address:

64 (i) provided at the time of registration; or

65 (ii) if, at or after the time of registration, the voter files an alternate address request
66 form described in Subsection (3)(b), the alternate address indicated on the form.

67 (b) The lieutenant governor shall make available to voters an alternate address request
68 form that permits a voter to request that the election officer mail the voter's ballot to a location
69 other than the voter's residence.

70 (c) A voter shall provide the completed alternate address request form to the election
71 officer no later than 11 days before the day of the election.

72 (4) The return envelope shall include:

73 (a) the name, official title, and post office address of the election officer on the front of
74 the envelope;

75 (b) a space where a voter may write an email address and phone number by which the
76 election officer may contact the voter if the voter's ballot is rejected;

77 (c) a printed affidavit in substantially the following form:

78 "County of ____ State of ____

79 I, ____, solemnly swear that: I am a qualified resident voter of the ____ voting precinct
80 in ____ County, Utah and that I am entitled to vote in this election. I am not a convicted felon
81 currently incarcerated for commission of a felony.

82 _____
83 Signature of Voter"; and

84 (d) a warning that the affidavit must be signed by the individual to whom the ballot
85 was sent and that the ballot will not be counted if the signature on the affidavit does not match
86 the signature on file with the election officer of the individual to whom the ballot was sent.

87 (5) If the election officer determines that the voter is required to show valid voter
88 identification, the election officer may:

89 (a) mail a ballot to the voter; and

90 (b) instruct the voter to include a copy of the voter's valid voter identification with the
91 return ballot.

92 (6) An election officer who administers an election shall:

93 (a) (i) before the election, obtain the signatures of each voter qualified to vote in the
94 election; or

95 (ii) obtain the signature of each voter within the voting precinct from the county clerk;
96 and

97 (b) maintain the signatures on file in the election officer's office.

98 (7) Upon receipt of a returned ballot, the election officer shall review and process the
99 ballot under Section [20A-3a-401](#).

100 (8) A county that administers an election:

101 (a) shall provide at least one election day voting center in accordance with Chapter 3a,
102 Part 7, Election Day Voting Center, and at least one additional election day voting center for
103 every 5,000 active voters in the county who have requested to not receive a ballot by mail;

104 (b) shall ensure that each election day voting center operated by the county has at least
105 one voting device that is accessible, in accordance with the Help America Vote Act of 2002,
106 Pub. L. No. 107-252, for individuals with disabilities;

107 (c) may reduce the early voting period described in Section [20A-3a-601](#), if:

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

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

111 (iii) the county clerk provides notice of the reduced early voting period in accordance
112 with Section [20A-3a-604](#);

113 (d) is not required to pay return postage for a ballot; and

114 (e) is subject to an audit conducted under Subsection (9).

115 (9) (a) The lieutenant governor shall:

116 (i) develop procedures for conducting an audit of affidavit signatures on ballots cast in
117 an election conducted under this section; and

118 (ii) after each primary, general, or special election conducted under this section, select
119 a number of ballots, in varying jurisdictions, to audit in accordance with the procedures
120 developed under Subsection (9)(a)(i).

121 (b) The lieutenant governor shall post the results of an audit conducted under this
122 Subsection (9) on the lieutenant governor's website.

123 (10) (a) An individual may request that the election officer not send the individual a
124 ballot by mail in the next and subsequent elections by submitting a written request to the
125 election officer.

126 (b) An individual shall submit the request described in Subsection (10)(a) to the
127 election officer before 5 p.m. no later than 60 days before an election if the individual does not
128 wish to receive a ballot by mail in that election.

129 (c) An election officer who receives a request from an individual under Subsection
130 (10)(a):

131 (i) shall remove the individual's name from the list of voters who will receive a ballot
132 by mail; and

133 (ii) may not send the individual a ballot by mail for:

134 (A) the next election, if the individual submits the request described in Subsection
135 (10)(a) before the deadline described in Subsection (10)(b); or

136 (B) an election after the election described in Subsection (10)(c)(ii)(A).

137 (d) An individual who submits a request under Subsection (10)(a) may resume the
138 individual's receipt of a ballot by mail by submitting a written request to the election officer.

139 Section 2. Section **20A-3a-401** is amended to read:

140 **20A-3a-401. Custody of voted ballots mailed or deposited in a ballot drop box --**

141 **Disposition -- Notice.**

142 (1) This section governs ballots returned by mail or via a ballot drop box.

143 (2) (a) Poll workers shall open return envelopes containing manual ballots that are in
144 the custody of the poll workers in accordance with Subsection (2)(b).

145 (b) The poll workers shall, first, compare the signature of the voter on the affidavit of
146 the return envelope to the signature of the voter in the voter registration records.

147 (3) After complying with Subsection (2), the poll workers shall determine whether:

148 (a) the signatures correspond;

149 (b) the affidavit is sufficient;

150 (c) the voter is registered to vote in the correct precinct;

151 (d) the voter's right to vote the ballot has been challenged;

- 152 (e) the voter has already voted in the election;
- 153 (f) the voter is required to provide valid voter identification; and
- 154 (g) if the voter is required to provide valid voter identification, whether the voter has
155 provided valid voter identification.
- 156 (4) (a) The poll workers shall take the action described in Subsection (4)(b) if the poll
157 workers determine that:
 - 158 (i) (A) the signatures correspond; or
 - 159 (B) if the signatures do not correspond and the voter qualifies for application of the
160 alternative signature verification rules described in Subsection (10), the voter's signature is
161 verified in accordance with the rules described in Subsection (10);
 - 162 (ii) the affidavit is sufficient;
 - 163 (iii) the voter is registered to vote in the correct precinct;
 - 164 (iv) the voter's right to vote the ballot has not been challenged;
 - 165 (v) the voter has not already voted in the election; and
 - 166 (vi) for a voter required to provide valid voter identification, that the voter has
167 provided valid voter identification.
- 168 (b) If the poll workers make all of the findings described in Subsection (4)(a), the poll
169 workers shall:
 - 170 (i) remove the manual ballot from the return envelope in a manner that does not
171 destroy the affidavit on the return envelope;
 - 172 (ii) ensure that the ballot does not unfold and is not otherwise examined in connection
173 with the return envelope; and
 - 174 (iii) place the ballot with the other ballots to be counted.
- 175 (c) If the poll workers do not make all of the findings described in Subsection (4)(a),
176 the poll workers shall:
 - 177 (i) disallow the vote;
 - 178 (ii) without opening the return envelope, mark across the face of the return envelope:
179 (A) "Rejected as defective"; or
180 (B) "Rejected as not a registered voter"; and
 - 181 (iii) place the return envelope, unopened, with the other rejected return envelopes.
- 182 (5) (a) If the poll workers reject an individual's ballot because the poll workers

183 determine that the signature on the return envelope does not match the individual's signature in
 184 the voter registration records, the election officer shall contact the individual in accordance
 185 with Subsection (7) by mail, email, text message, or phone, and inform the individual:

186 (i) that the individual's signature is in question;
 187 (ii) how the individual may resolve the issue;
 188 (iii) that, in order for the ballot to be counted, the individual is required to deliver to
 189 the election officer a correctly completed affidavit, provided by the county clerk, that meets the
 190 requirements described in Subsection (5)(b).

191 (b) An affidavit described in Subsection (5)(a)(iii) shall include:

192 (i) an attestation that the individual voted the ballot;
 193 (ii) a space for the individual to enter the individual's name, date of birth, and driver
 194 license number or the last four digits of the individual's social security number;

195 (iii) a space for the individual to sign the affidavit; [~~and~~]

196 (iv) a statement that, by signing the affidavit, the individual authorizes the lieutenant
 197 governor's and county clerk's use of the individual's signature on the affidavit for voter
 198 identification purposes[;]; and

199 (v) a check box accompanied by language in substantially the following form:

200 "I am a voter with a qualifying disability under the Americans with Disabilities Act that
 201 impacts my ability to sign my name consistently. I can provide appropriate documentation upon
 202 request. To discuss accommodations, I can be contacted at _____".

203 (c) In order for an individual described in Subsection (5)(a) to have the individual's
 204 ballot counted, the individual shall deliver the affidavit described in Subsection (5)(b) to the
 205 election officer.

206 (d) An election officer who receives a signed affidavit under Subsection (5)(c) shall
 207 immediately:

208 (i) scan the signature on the affidavit electronically and keep the signature on file in the
 209 statewide voter registration database developed under Section 20A-2-109; [~~and~~]

210 (ii) if the election officer receives the affidavit no later than 5 p.m. the day before the
 211 canvass, count the individual's ballot[;]; and

212 (iii) if the check box described in Subsection (5)(b)(v) is checked, comply with the
 213 rules described in Subsection (10).

214 (6) If the poll workers reject an individual's ballot for any reason, other than the reason
215 described in Subsection (5)(a), the election officer shall notify the individual of the rejection in
216 accordance with Subsection (7) by mail, email, text message, or phone and specify the reason
217 for the rejection.

218 (7) An election officer who is required to give notice under Subsection (5) or (6) shall
219 give the notice no later than:

220 (a) if the election officer rejects the ballot before election day:

221 (i) one business day after the day on which the election officer rejects the ballot, if the
222 election officer gives the notice by email or text message; or

223 (ii) two business days after the day on which the election officer rejects the ballot, if
224 the election officer gives the notice by postal mail or phone;

225 (b) seven days after election day if the election officer rejects the ballot on election day;
226 or

227 (c) seven days after the canvass if the election officer rejects the ballot after election
228 day and before the end of the canvass.

229 (8) An election officer may not count the ballot of an individual whom the election
230 officer contacts under Subsection (5) or (6) unless the election officer receives a signed
231 affidavit from the individual under Subsection (5)(b) or is otherwise able to establish contact
232 with the individual to confirm the individual's identity.

233 (9) The election officer shall retain and preserve the return envelopes in the manner
234 provided by law for the retention and preservation of ballots voted at that election.

235 (10) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
236 and in compliance with Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. Sec.
237 12131 through 12165, the director of elections, within the Office of the Lieutenant Governor,
238 shall make rules that provide for alternative means of verifying the signature of an individual
239 who checks the box described in Subsection (5)(b)(v).

240 Section 3. Section **20A-5-101** is amended to read:

241 **20A-5-101. Notice of election.**

242 (1) On or before November 15 in the year before each regular general election year, the
243 lieutenant governor shall prepare and transmit a written notice to each county clerk that:

244 (a) designates the offices to be filled at the next year's regular general election;

245 (b) identifies the dates for filing a declaration of candidacy, and for submitting and
246 certifying nomination petition signatures, as applicable, under Sections 20A-9-403, 20A-9-407,
247 and 20A-9-408 for those offices; and

248 (c) contains a description of any ballot propositions to be decided by the voters that
249 have qualified for the ballot as of that date.

250 (2) (a) No later than seven business days after the day on which the lieutenant governor
251 transmits the written notice described in Subsection (1), each county clerk shall provide notice,
252 in accordance with Subsection (3):

253 (i) by posting notice in a conspicuous place most likely to give notice of the election to
254 the voters in each voting precinct within the county;

255 (ii) (A) by publishing notice in a newspaper of general circulation in the county;

256 (B) by posting one notice, and at least one additional notice per 2,000 population of the
257 county, in places within the county that are most likely to give notice of the election to the
258 voters in the county, subject to a maximum of 10 notices; or

259 (C) by mailing notice to each registered voter in the county;

260 (iii) by posting notice on the Utah Public Notice Website, created in Section
261 63A-16-601, for seven days before the day of the election; and

262 (iv) by posting notice on the county's website for seven days before the day of the
263 election.

264 (b) The county clerk shall prepare an affidavit of the posting under Subsection (2)(a)(i),
265 showing a copy of the notice and the places where the notice was posted.

266 (3) The notice described in Subsection (2) shall:

267 (a) designate the offices to be voted on in that election; and

268 (b) identify the dates for filing a declaration of candidacy for those offices.

269 (4) Except as provided in Subsection (6), before each election, the election officer shall
270 give printed notice of the following information:

271 (a) the date of election;

272 (b) the hours during which the polls will be open;

273 (c) the polling places for each voting precinct, early voting polling place, and election
274 day voting center;

275 (d) the address of the Statewide Electronic Voter Information Website and, if available,

276 the address of the election officer's website, with a statement indicating that the election officer
277 will post on the website any changes to the location of a polling place and the location of any
278 additional polling place;

279 (e) a phone number that a voter may call to obtain information regarding the location of
280 a polling place; ~~and~~

281 (f) the qualifications for persons to vote in the election[-]; and

282 (g) instructions for how an individual with a disability who is not able to vote a manual
283 ballot by mail may obtain information on voting in an accessible manner.

284 (5) The election officer shall provide the notice described in Subsection (4):

285 (a) (i) by publishing the notice in a newspaper of general circulation in the jurisdiction
286 to which the election pertains, at least two days before the day of the election;

287 (ii) at least two days before the day of the election, by posting one notice, and at least
288 one additional notice per 2,000 population of the jurisdiction, in places within the jurisdiction
289 that are most likely to give notice of the election to the voters in the jurisdiction, subject to a
290 maximum of 10 notices; or

291 (iii) by mailing the notice to each registered voter who resides in the jurisdiction to
292 which the election pertains at least five days before the day of the election;

293 (b) by posting notice on the Utah Public Notice Website, created in Section
294 [63A-16-601](#), for two days before the day of the election; and

295 (c) if the jurisdiction has a website, by posting notice on the jurisdiction's website for
296 two days before the day of the election.

297 (6) Instead of including the information described in Subsection (4) in the notice, the
298 election officer may give printed notice that:

299 (a) is entitled "Notice of Election";

300 (b) includes the following: "A [indicate election type] will be held in [indicate the
301 jurisdiction] on [indicate date of election]. Information relating to the election, including
302 polling places, polling place hours, and qualifications of voters may be obtained from the
303 following sources:"; and

304 (c) specifies the following sources where an individual may view or obtain the
305 information described in Subsection (4):

306 (i) if the jurisdiction has a website, the jurisdiction's website;

- 307 (ii) the physical address of the jurisdiction offices; and
- 308 (iii) a mailing address and telephone number.